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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fiftieth session

SUMMARY RECORD OF THE 1192nd MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 6 March 1997, at 3 p.m.

Chairman: Mr. BANTON

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.97-15797 (E)

The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Fourteenth periodic report of Belarus (CERD/C/299/Add.8)

1. At the invitation of the Chairman, Mr. Khvastou, Mrs. Gapontsava, Mrs. Kupchyna and Mr. Kramyanka (Belarus) took seats at the Committee table.

2. Mr. KHVASTOU (Belarus) said that one of the most important tasks of the United Nations was to encourage and promote respect for fundamental rights and freedoms regardless of a person's national or ethnic origin, colour or religion, a principle that was held dear in the Republic of Belarus. Discrimination on grounds of race, colour or national or ethnic origin had never been a problem in Belarus and discriminatory attitudes were not tolerated. Since its independence in 1990, Belarus had abandoned use of the term "nationality" in all official documents, including its citizens' identity papers.

3. The Constitution of Belarus fully reflected the provisions of the Convention, particularly those relating to the prohibition of political parties or public associations that promoted racial hatred, the rights of refugees, the right to own property, preservation of peoples' historical, cultural and religious heritage, freedom of religion and association, and freedom of movement. All persons were equal before the law, regardless of race, colour or ethnic or national origin. Everyone had the right to maintain his or her cultural identity, and a vast array of rights and safeguards were afforded to all. There were no restrictions on nationalities that could apply for citizenship of Belarus. The Government was keen to honour all the commitments it had entered into under international instruments. A person was at complete liberty to take a complaint relating to human rights violations before the courts or another competent authority.

4. The Criminal Code also prohibited any form of racial discrimination. A person found guilty of human rights violations on grounds of race or nationality was liable to a prison sentence of between six months and three years or could be sent into exile for between two and five years.

5. In January 1997, the State Committee on Religious and National Questions had been set up and would ensure implementation of State policy to prohibit racial or religious discrimination.

6. In 1989, Belarus had withdrawn its reservation to article 22 of the Convention and, in 1992, it had acceded to the International Covenant on Civil and Political Rights. The Government was considering a proposal to make the declaration under article 14 of the Convention. In 1992, Belarus had fully supported the adoption of General Assembly resolution 47/111.

7. The fourteenth periodic report of Belarus was widely available around the country, notably in libraries and educational establishments.

8. Mr. van BOVEN (Country Rapporteur) said that he welcomed the fruitful dialogue that had been established with the Government of Belarus and its efforts to provide the information the Committee had requested. Due note had clearly been taken of the Committee's concluding observations following submission of the eleventh, twelfth and thirteenth periodic reports (CERD/C/263/Add.4). He had received particularly valuable information from the Belarus League for Human Rights which, as a national body, was especially well placed to comment on the situation in Belarus.

9. The increasing concentration of power in the hands of the Presidency, at the expense of the independent role of Parliament and the judiciary, was of particular concern, as was the reduced purchasing power of citizens of Belarus and the increasing gap between rich and poor.

10. The fourteenth report (CERD/C/299/Add.8), although detailed, gave rise to a number of questions. For example, it was not clear who established the cultural associations mentioned in paragraph 10, the national groups themselves or the State. Nor was there any indication to whether the gypsies mentioned in paragraph 4 had their own associations.

11. He asked how the Convention of the Commonwealth of Independent States (CIS) concerning the rights of persons belonging to national minorities compared with the International Convention on the Elimination of All Forms of Racial Discrimination, and whether there was any machinery for monitoring their implementation. Similarly, did the CIS Convention on Human Rights and Fundamental Freedoms provide greater protection than other international conventions and covenants? How was its implementation monitored? And was there any conflict between its provisions and similar international instruments?

12. Further information on problems generated by the influx of immigrants from different parts of the world, as mentioned in the document from the Belarus League for Human Rights, would be welcome.

13. It would be interesting to know whether the Act on Refugees referred to in paragraph 16 of the report was in conformity with the provisions of the Convention relating to the Status of Refugees and whether the authorities had sought the advice of the Office of the United Nations High Commissioner for Refugees before drafting the Act.

14. He asked whether the Act on Elections of the President of the Republic of Belarus also covered other kinds of election.

15. Paragraph 32 of the report mentioned the Act on Public Associations and the fact that any encouragement of national, religious or racial enmity was prohibited. However, there was no indication whether similar restrictions applied to private associations.

16. He asked how effective the Act on the Press and Other Mass Media was in practice and whether it had been invoked before the courts.

17. It was of concern that, although the Act on Local Government and Self-Government prohibited all forms of racial discrimination, there was no corresponding legislation covering national government.

18. According to paragraph 35 of the report, there had been no recorded instances of criminal proceedings being brought in cases involving incitement of racial hatred or other acts covered by article 4 of the Convention. Did that mean that the authorities were not aware of the existence of such acts, or that they were too slow or not interested in prosecuting?

19. In that connection, he referred to a number of disturbing reports of anti-Semitism cited by an NGO, the Belarus League for Human Rights: a senior official had made an anti-Semitic remark and had maintained that his opinion was shared by the President of Belarus; Mikhail Nordstein, editor-in-chief of the Jewish newspaper Aviv and a prominent figure in Jewish life in Belarus, had recently found the door of his flat smeared with swastikas and the Star of David; many of the articles in the newspaper Russkiy Vzglyad, which was published in Russia and was on sale in Belarus, contained anti-Semitic propaganda; and the surgeon Albert Lavrenev was being held in detention on trumped-up charges of manslaughter because of his Jewish origin. All those cases appeared to provide grounds for taking action on the basis of Belarus legislation and article 4 of the Convention. He asked the delegation of Belarus to comment on those cases.

20. Turning to paragraph 40, he said that it would be useful for the next report to contain information on the office of ombudsman. In connection with paragraph 41, he requested details of the composition of the Coordinating Council for National Minorities. Concerning paragraph 43, which set out the rights of citizens before the law, he inquired whether the victims of discrimination could seek damages from the courts.

21. Given that the report devoted so much space to education and teaching (paras. 44-65), and made mention of the teaching of Russian, Polish, Ukrainian, Lithuanian, Hebrew and Latvian, he was surprised that it contained no reference to the Belarusian language. According to the report of the Belarus League for Human Rights, in the past two or three years the teaching of Belarus, the mother tongue of 75 per cent of the population, had declined sharply, while the teaching of Russian had increased rapidly. The League maintained that that reflected deliberate policy. He asked the delegation of Belarus to comment.

22. Paragraph 76 of the report stated that all citizens of Belarus were entitled to health care. Did that also apply to non-citizens?

23. The section of the report dealing with the mass media (paras. 83-88) appeared to be confined to the press; he therefore sought more information on the broadcasting media.

24. In the presentation by the delegation of Belarus, reference had been made to the recent creation of a State Committee on Religious and National Questions. Would it be possible to have details about that body in the next report? He noted that in 1993 General Recommendation XVII had been adopted on

the establishment of national institutions to facilitate the implementation of the Convention. To what extent did the recently-created body cover matters of relevance to the Committee?

25. He noted with interest that Belarus had withdrawn its reservation to article 22 of the Convention and that steps were being taken to ratify article 8, paragraph 6, and article 14.

26. The delegation of Belarus had stated that its report and the concluding observations of the Committee were being published as part of a brochure. Yet the Belarus League for Human Rights maintained that when it had requested a copy of the Belarus report, officials from the Ministry of Foreign Affairs had replied that it could only be obtained upon a formal request in writing; according to the League, the government report had never been published or discussed in the Belarusian media. He asked the delegation of Belarus for a clarification.

27. Mr. VALENCIA RODRIGUEZ said that the report sent to the Committee by the Belarus League for Human Rights could not be dismissed out of hand; he therefore sought clarification from the delegation of Belarus on the League's allegations of anti-Semitic statements made in a number of periodicals and even by certain high officials, the violation of the right to education in the Belarusian language, and the infringement of the rights of refugees and dissidents who were not entitled to work or to receive education and were thus living under very difficult conditions.

28. Mr. GARVALOV said he would welcome clarification on a number of points. The second table in paragraph 4 of the report was headed "The inhabitants of Belarus also include". Would it not be more appropriate to refer to such persons as "nationals"? In that regard, he noted that paragraph 10 listed Koreans as one of the national groups which had a cultural association; yet Koreans did not appear in either of the two tables under paragraph 4. Could the delegation of Belarus explain that discrepancy?

29. The report used the terms "national minorities", "ethnic minorities", "national communities" and "national societies". Were they employed interchangeably?

30. In his view, the reference in paragraph 8 to a striving on the part of ethnic minorities for national self-awareness was misleading, because that might suggest self-awareness as a nation.

31. Paragraph 34 stated that one of the fundamental principles of local government and self-government was that of "lawfulness, social justice and humanism", which in itself presupposed the prohibition of all forms of racial discrimination; to his mind, that suggested that legal measures specifically prohibiting racial discrimination were still very much needed.

32. Paragraph 41 spoke of the Coordinating Council for National Minorities. He would like to know whether that body had produced any findings and whether they were available.

33. The section of the report on education and teaching was very exhaustive, but it only addressed ways of educating children, whereas it was also important to heighten the awareness of teachers, the police, judges and other public officials concerning the issue of racial discrimination and offer them ways to cope with the problem. Was that being done and, if so, in what fashion?

34. Mr. de GOUTTES said that he was pleased to learn that legislation made racist propaganda a punishable offence, outlawed associations which fomented racist, national or religious hatred and prohibited the use of the media to incite intolerance or racial discord; he hoped that examples of the practical application of that legislation would be given in the next report.

35. He expressed surprise at the statement in paragraph 35 that there had been no recorded incidences of criminal proceedings against acts of racial discrimination, particularly in view of the diversity of nationalities, racial groups and refugees living in Belarus. Rather than being a positive sign, the absence of complaints of racial discrimination could in fact reflect citizens' ignorance of their rights, a lack of confidence in the police and judiciary, or a reluctance on the part of the public authorities to take legal action.

36. Turning to paragraph 25, he asked whether Belarus intended to ratify the CIS Convention on Human Rights and Fundamental Freedoms in the near future. He was also interested in knowing whether the supervisory mechanism established under that Convention was of a jurisdictional nature. There was no incompatibility whatsoever between the new CIS mechanism, the provisions of article 14 of the Convention and the International Covenant on Civil and Political Rights as neither the Convention nor the Covenant was of a jurisdictional nature. However, he asked the delegation to explain how Belarus, as a member of the Council of Europe, envisaged the guarantee of compatibility of the CIS instrument with the European Convention on Human Rights.

37. Ms. ZOU, referring to the two tables in paragraph 4 of the report, asked for an explanation of the figures given. From the statistics in the second table, she noted that Gypsies represented one of the larger groups of minorities, but in paragraph 10 there was no mention of cultural associations of Gypsies. She wondered whether that meant that Gypsies were already fully integrated into Belarus society. She also asked for a clarification of the definition of "foreign citizens and stateless persons", as used in paragraph 29, and asked whether the rights and freedoms mentioned in that paragraph included political rights.

38. Mr. DIACONU noted that the number of laws adopted by Belarus on the elimination of racial discrimination continued to increase, providing the State party with an extremely complex legal framework composed of elements which guaranteed full equality and the implementation of article 4 of the Convention.

39. In connection with the first sentence of paragraph 34, he explained that article 4 (c) of the Convention did not call on States parties to adopt specific legislation, but asked them not to allow public authorities to engage

in discriminatory acts. It was sufficient for States parties to have comprehensive national legislation, particularly those States such as Belarus which had a single legal territory.

40. He wished to know the relationship between the Coordinating Council for National Minorities and the State Committee on Religious and National Questions, and how the two bodies coordinated their activities. Did the International Convention on the Elimination of all Forms of Racial Discrimination or domestic laws have primacy in matters of interpretation. And what was the relationship of those instruments with the CIS Convention and other instruments on human rights to which Belarus might accede? Referring to the tables in paragraph 4, he pointed out that the heading of the second table in the French text was "Autres minorités" (other minorities); that was an improvement on the English heading, which referred simply to "inhabitants". In that context, he asked whether Belarus could provide more recent statistics on minorities. He also pointed out the lack of socio-economic data on the enjoyment, by ethnic minorities, of the rights embodied in article 5 of the Convention.

41. He raised the question of the circulation of Russkiy Vzglyad, to which Mr. van Boven had referred in the context of the Act on the Press and Other Mass Media. He inquired about access of all nationalities in Belarus to civil service posts and their level of participation in government. In the area of education, he was interested to know whether Russian and Belarusian were compulsory, whether parents had a choice in their children's schooling and what proportion of pupils was required for classes to be conducted in minority languages. In conclusion, he commented on the large numbers of aliens in Belarus and acknowledged that a number of them had illegal status because their stay was temporary while they attempted to migrate to Western countries. That tendency had posed a serious challenge to several countries and bodies dealing with refugees and asylum-seekers.

42. Mr. RECHETOV said Belarus could be considered an island of tranquillity in the midst of conflict in neighbouring regions and expressed the hope that it would remain tranquil.

43. As the Committee considered the periodic report, it was obliged to examine all information submitted from various sources. He referred to a report, by the Belarus League for Human Rights, which had been submitted to the Committee and contained allegations of anti-Semitic practices in Belarus. He questioned the legitimacy of the claims and the motivation for the submission of that report; the Committee was nevertheless obliged to satisfy itself that tolerance prevailed within States parties. He invited the delegation to comment on the report and to provide further information on the study of the Belarusian and Russian languages.

44. Mr. ABOUL-NASR referred to an earlier recommendation by the Committee to the General Assembly for assistance from the United Nations Centre for Human Rights to Belarus. He asked whether such assistance had in fact been granted and was still in effect.

45. Referring to the report from the Belarus League for Human Rights mentioned by Mr. Rechetov, he asked for further details on that organization,

its sources of finance, the validity of its claims and the context within which the report had been submitted. He questioned whether the European promoters of that organization had a specific "project" in mind.

46. Mr. van BOVEN regretted Mr. Aboul-Nasr's statement, which unacceptably injected cold-war thinking into the debate, stirring up sentiments that had prevailed in the past between Eastern and Western Europe and playing one against the other, at a time when Belarus, now a member of the Council of Europe, was cooperating with Western Europe. As a Western European himself, he did not consider the situation in that perspective. That such information was now coming out of Belarus and such organizations could function there was in itself a cause for satisfaction and was to the credit of the State party. He had felt that the information was relevant to the Committee's work and Mr. Aboul-Nasr's comments cast doubt on his integrity as Country Rapporteur. His own questions to the government representative had been intended precisely to help the Committee to ascertain the truth of the allegations contained in the document. As to the source of the paper, there was nothing secret about its funding, and indeed the author had indicated the funding source. Although he had no contact with the Phare-Tacis Democracy Program, neither its operations nor its funding were secret and it was carried out with the full knowledge and consent of the Governments concerned. If Committee members were interested, he could contact Brussels to obtain full details. That the paper had been addressed to the Human Rights Committee was a formality; the information it contained was equally relevant to the work of the Committee on the Elimination of Racial Discrimination.

47. Mr. ABOUL-NASR said that he had not been addressing his remarks to Mr. van Boven, but to the representative of the Government, commenting on the paper before him and requesting information about the organization concerned. He had not claimed it was a secret organization, but wanted to know more about it and how it was financed so that he could assess its activities. He had also asked what was behind the paper and had commented on the value of the allegations it contained, giving examples. He denied having introduced cold-war rhetoric into the debate. His remarks had apparently angered Mr. van Boven, who seemed to be defending the paper in question. He respected the latter's views and would see to it that Mr. van Boven respected his own.

48. Mr. YUTZIS endorsed the many questions and comments made by previous speakers, especially the useful insights provided by the Country Rapporteur. With reference to the Committee's concluding observation contained in paragraph 348 of document A/50/18, some information had been provided on the demographic composition of the country and a substantial amount on education, but little on minorities' enjoyment of other rights covered by article 5, especially health and housing.

49. With regard to education, some information was given in the report on the teaching of Polish, Ukrainian, Lithuanian and Hebrew, but, apart from Lithuanian, none on education in the languages spoken by the other minority groups listed in the second table in paragraph 4. Incidentally, the heading of the second table, at least in the Spanish version of the report, seemed somewhat derogatory to the minorities listed. He drew attention in particular

to the Gypsy population, which constituted a fairly large minority and which from experience was known to be an often marginalized sector of society. He hoped that more information would be provided on the implementation of article 5 in the next report. Further clarification was also needed on the network of Sunday schools referred to in paragraph 52, which he assumed were privately funded, and on paragraph 60, where it was unclear what the "public education" provided in Sunday schools entailed, what languages were used and which minority groups were concerned.

50. The last sentence of paragraph 49 seemed somewhat contradictory in referring both to national awareness and to respect for persons belonging to other countries and peoples. Some clarification was needed of what was meant by shaping and building national awareness.

51. The CHAIRMAN, speaking as a member of the Committee, said by way of general comment that a point to be borne in mind when preparing a periodic report was that States parties undertook not only to refrain from discriminatory policies and practices, but also to protect all residents from discrimination by other parties, including private persons. Another point was that there was sometimes a tendency among reporting States to paint a rosy picture of the situation, in the belief that the State's responsibility stopped at passing the requisite laws. Monitoring implementation was equally important and involved ascertaining whether government officials were performing their duties to the full and inquiring of the people themselves how they felt affected in their daily lives. That kind of information helped the Committee to assess the manner in which State obligations were actually fulfilled.

52. The delegation of Belarus withdrew.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3) (continued)

53. Mr. CHIGOVERA (Rapporteur) drew attention to the Committee's revised programme of work, which had been circulated, together with a list of reports to be considered by the Committee at future sessions, explaining the Bureau's recommendations for rearranging the timetable. The missions of Cameroon and Nepal had indicated that they would be sending delegations to the appropriate meetings. The authorities of Bosnia and Herzegovina had informed the Committee that its representatives would not be available on the day scheduled for consideration of its report and it had proved impossible to accommodate the proposed alternative dates in the Committee's busy schedule. Consideration of that country's report had therefore been deferred. The Bureau had considered that a request for deferment by the Government of Uganda did not provide sufficient grounds for postponement; consideration of that report should, however, be postponed to the fifty-second session on account of the Committee's heavy workload, and the Ugandan authorities should be informed accordingly.

54. The CHAIRMAN added that a letter had also been received from the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro), but there, too, the grounds for deferment seemed insufficient. They had been informed that consideration would be maintained on the appointed day, but the Country Rapporteur would present a view of the situation that would help them in finalizing their report. He suggested that any members wishing to propose further amendments to the revised programme of work should consult the Rapporteur.

The meeting rose at 6 p.m.

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fiftieth session

SUMMARY RECORD OF THE 1193rd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 7 March 1997, at 10 a.m.

Chairman: Mr. BANTON

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Ninth periodic report of Luxembourg

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GE.97-15817 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Fourteenth periodic report of Belarus (continued) (CERD/C/299/Add.8; HRI/CORE/1/Add.70) (continued)

1. At the invitation of the Chairman, the delegation of Belarus resumed its seats at the Committee table.

2. Mr. KHVASTOU (Belarus), replying to questions put by the members of the Committee, said that the policy of the State of Belarus was not national but multinational. The existence of numerous national groups in Belarus raised problems that were common to all the States that had emerged from the former Soviet Union. However, the spirit of tolerance and the high cultural level of Belarusians favoured coexistence among the approximately 120 nationalities on its territory. That diversity was not an obstacle to homogeneity, since native Belarusians (77.7 per cent), Russians (13.2 per cent), Poles (4.1 per cent), Ukrainians (2.9 per cent) and Jews (1.1 per cent) together accounted for 99.2 per cent of the total population as compared with 0.8 per cent for the remaining 115 nationalities.

3. He thanked the rapporteur, Mr. van Boven, for his thoughtful comments on the report of Belarus, based for the most part on documents published by the Belarusian League for Human Rights. With regard to the inadequacy of information on the implementation of articles 4 and 6 of the Convention, he referred members of the Committee to paragraphs 24, 26, 31, 32 and 33 of the report. He added that article 71 of the Criminal Code classified violation of the principles of racial equality as a crime against the State and that article 5 of the Constitution prohibited the creation of parties or associations which advocated racial discrimination or animosity. Article 11 prohibited the activities of national associations that promoted national or religious hostility.

4. He went on to say that in the event of a conflict between domestic legislation and the international conventions ratified by Belarus, the latter took precedence.

5. In reply to the question on paragraph 14 of the report, he said that the State guaranteed the right of citizens to set up associations and granted subsidies to the groups and associations thus established. Similarly, the State concluded bilateral cultural agreements with other States, Poland and Ukraine in particular, to set up cultural centres or associations for national minorities. The gypsies, who accounted for a minute proportion of the population, had not hitherto made use of their right to establish associations under the provisions concerning national minorities, and the authorities could not force them to do so.

6. Ms. KUPCHYNA (Belarus), replying to the questions Mr. van Boven and Mr. de Gouttes had raised on the relationship between the Convention of the Commonwealth of Independent States (CIS) on Human Rights and Fundamental Freedoms and international human rights instruments, said that the provisions

of the CIS Convention reproduced almost word for word the provisions of international or regional human rights instruments, and quoted several articles based directly on the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The CIS Convention also contained a number of provisions which reflected national or regional idiosyncrasies. Article 35, for example, prohibited the collective exile of citizens practised by the former USSR. Article 16 provided for the right to social security, which was not mentioned in the international human rights instruments, and article 18 defined the right of the disabled and the physically and mentally handicapped to professional training and work. Special provisions protected the right of women to work and provision was also made for their conditions of employment.

7. With reference to the implementation of the CIS Convention, she said it had been signed by seven States but ratified only by the Russian Federation. It would come into force only when it had been ratified by three States.

8. She added that the question of whether the provisions of the CIS Convention were more favourable than those of the international conventions in respect of the protection of human rights deserved very careful consideration, and again pointed out that its provisions conformed to relevant international norms and that there was a direct relationship between the International Convention on the Elimination of All Forms of Racial Discrimination and articles 20 and 21 of the CIS Convention, which stated that members of national minorities had the right to express, preserve and develop their cultural, religious and linguistic ethnic identity.

9. She explained, with reference to the composition of the CIS Human Rights Commission, that it comprised representatives of the various member States of CIS, who were jurists with particular competence in human rights. The Commission was empowered to consider complaints from private individuals under the jurisdiction of States parties to the CIS Convention who reported human rights violations by any of the parties; the Commission then prepared conclusions and recommendations adopted by consensus.

10. Mr. KHVASTOU (Belarus), replying to the question why refugees on Belarusian territory did not apply to the competent bodies, said that the persons in question could submit petitions and appeal to the Ministry of Labour and the State Migration service.

11. In Belarus, the concept of refugee had a specific meaning associated with a particular situation. For example, Vietnamese or Afghan former students who had arrived during the Soviet regime and could not return to their countries had refugee status. Those who had been resettled were native Belarusians from Estonia and Lithuania who received financial assistance and housing loans under favourable conditions from the national or local authorities. There were also large numbers of migrants from countries experiencing domestic problems, in particular Abkhaz, Uzbeks, Azerbaijanis and Chechens. They were also given assistance, and the fact that they spoke Russian facilitated their integration into active life.

12. His country had no independent review body for human rights violations, but individuals could to some extent apply to the Union of Jurists. However, a bill to establish a human rights commissioner and an ombudsman was under consideration. As things stood, cases involving human rights were brought before the ordinary courts.

13. In reply to a question concerning the drafting of a refugee act conforming to the international Convention relating to the Status of Refugees, he said that the State made use of the technical assistance of the representative of the High Commissioner for Refugees for matters concerning refugees. He also said that the Act on Elections of the President of the Republic of Belarus, which permitted non-native Belarusians to be candidates in the presidential elections (para. 21 of the report) did not apply automatically to all other posts.

14. He agreed that article 4 should be more closely incorporated into the Constitution, but pointed out that it would probably be simpler if Belarus adopted an act banning racial discrimination, which should not create any problems for the legislators since racial discrimination was not common in Belarus. Such an instrument would not, however, take precedence over the Constitution.

15. For Mr. van Boven's information, he explained that the State refused to register associations whose documents revealed racist convictions or ideas.

16. With reference to the Act on the Press and Other Mass Media, and especially the implementation of its article 5, he said that it had not given rise to the application of any administrative, disciplinary or penal sanction.

17. In answer to another question, he said that no statutory provisions expressly prohibited incitement to racial hatred, either at the national or the local level, nor had any cases of appeals to racial hatred been reported.

18. Going on to the report of the Belarus League for Human Rights, he began by questioning its objectivity, and denounced the inaccuracy of the information it contained. Contrary to what was stated on page 13, Belarus did indeed have legislation on refugees and the Government cooperated closely in that respect with UNHCR and IOM representatives in the country. There was also a perfectly satisfactory act, drawn up in collaboration with experts from the Council of Europe, on the status of aliens and stateless persons. As for the cases of anti-Semitism mentioned in the report, he said that Jews and Belarusians had always lived peaceably together and had suffered together under fascism, while one-quarter of the Belarusian population had perished during the Second World War. It was therefore untrue to say that official anti-Semitism existed in Belarus. It sufficed to recall that Belarus was among the sponsors of the General Assembly resolution adopted in 1991 which rejected the assimilation of Zionism with racism. The Jewish Agency for Israel had an office in Belarus which facilitated the departure of persons of Jewish origin wishing to settle in Israel and arranged the teaching of Hebrew.

19. There was no need for further discussion of the rather trivial matter of the Deputy-Director of the Komarovsky market. The case of Mr. Nordstein was

currently being investigated by the Office of the Attorney-General and, if the Committee so wished, the Belarusian delegation would report later on the follow-up. As for the newspaper "Russkiy Vzglyad", it was the first he had heard of it. Lastly, with regard to the Lavrionov affair, he said that the charges against him were very serious and that it was unlikely that an entire legal case would be fabricated simply to put a Jew in prison.

20. The Coordinating Council for National Minorities attached to the Cabinet of Ministers (para. 41), established in 1995, was headed by a deputy prime minister and included representatives of various ministries and national associations. As to whether victims of racial discrimination were able to obtain compensation, he referred to article 60 of the Constitution which provided that application could be made for compensation for material or moral injury.

21. The decline in the number of Belarusian schools was certainly not the result of a deliberate State policy. During the 1995-1996 school year, there had been 4,807 schools in Belarus; 3,029 taught exclusively in Belarusian, 594 exclusively in Russian and 1,184 in at least two languages. He added that 90 per cent of the country's inhabitants regarded Belarusian as their mother tongue while 95 per cent of the population spoke Russian. With reference to the publication of textbooks in the minority languages, he said that Hebrew and Polish texts were published for institutions of higher education and stressed that Belarusian was not about to disappear.

22. As for the protection of the health of non-nationals, article 63 of the Social Security Act provided that foreigners and stateless persons residing permanently in Belarus had the same health rights as Belarusian nationals. His delegation was prepared to furnish the Committee with more detailed information on the mass media at a later date - he said only that there were radio and television programmes in Polish and Hebrew - along with information concerning religions and religious minorities.

23. In reply to a comment by Mr. Valencia Rodriguez, he admitted that the figure given for the population of Belarus in the report was inaccurate; on 1 January 1997, Belarus had 10,282,000 inhabitants. For Mr. Garvalov's information he explained that the citizens of Korean origin mentioned in paragraph 10 were long-established; there was also a small group of North Korean refugees. He recognized that there was some inconsistency in the terminology used in the report, and also, in answer to a question from Mrs. Zhou, that the tables in the report were poorly presented. Lastly, replying to Mr. de Gouttes who had asked for specific examples of the implementation of the Convention, he said that the Committee would be able to find such examples in the next report of Belarus.

24. Mr. ABOUL-NASR observed that the Belarusian delegation had not answered his question on what assistance Belarus might have had in preparing its report. He understood that there was a problem of time, and hoped that an attempt would be made to ensure that the time available was better divided between questions and answers.

25. Mr. van BOVEN (Rapporteur for Belarus) thanked the delegation of Belarus for its detailed replies to the Committee's questions despite the

limited time available to it. He had two concluding remarks to make. Firstly, the representative of Belarus had said that he was personally in favour of a special act to implement the Convention although he had stressed that it might cause the lawmakers problems. The lawmakers might conceivably not see why such an act should be promulgated, since the question was not a very important one. The Committee's experience showed, however, that something that was not an immediate problem could cause problems later. Legislation also played a preventive role and he would encourage the Belarusian delegation in that direction. Secondly, he had noted that the Belarusian delegation would furnish the Committee at a later date with information on the question of education in various languages. He welcomed that move, considering that the matter was one of great importance.

26. The CHAIRMAN thanked the delegation of Belarus and said that the Committee had completed its consideration of the report of Belarus.

27. The delegation of Belarus withdrew.

Ninth periodic report of Luxembourg (CERD/C/277/Add.2; HRI/CORE/1/Add.10)

28. At the invitation of the Chairman, the delegation of Luxembourg took seats at the Committee table.

29. Mr. WEITZEL (Spokesman for the Ministry of Foreign Affairs of Luxembourg) summed up for the Committee the measures Luxembourg had taken to prevent racial discrimination since the summer of 1994, when the previous report had been submitted. It was worthy of note that the Committee's conclusions concerning the last three reports of Luxembourg had given rise to a debate in the Chamber of Deputies in October 1994.

30. The case of Luxembourg, where foreigners accounted for 35.8 per cent of the resident population (31.1 per cent for European Union nationals), was unique in Europe, and explained the Government's determined policy of integration and its fight against racism and xenophobia. In addition to the legal instruments banning discrimination and the provisions for obtaining Luxembourg nationality, which had been gradually eased in recent years, a wide range of measures had been adopted to encourage the integration of foreigners into Luxembourg society.

31. Since Luxembourg had had the good fortune to be spared the social crises experienced by many of its neighbours, such measures were adopted not only to prevent racial discrimination but also, from a broader and more positive perspective, to bring about the genuine economic, social and partially political integration of aliens, recognized by all as the guarantee of social peace and stability. The question of voting rights in communal and European parliamentary elections and the access of EU nationals to elective office - issues which related to the implementation of the Maastricht Treaty and to the exercise and symbolism of sovereignty - had given rise to a major public debate leading to the amendment of articles 9 and 107 of the Constitution. Aliens had thus been able to participate in the June 1994 elections to the European Parliament and in elections to trades associations, and the experience had been regarded as very positive.

32. He went on to inform the Committee about the implementation of the provisions of the Integration of Aliens Act promulgated on 27 July 1993. The National Aliens' Council, officially established on 18 September 1995, was a 30-member body, with equal representation of the State, communes, trades associations, trade unions, employers and the various nationalities or groups of nationalities living in Luxembourg. It had been consulted by the lawmakers as part of the procedure for the adoption of the bill on conditions and terms for the participation of non-Luxembourg European Union nationals in municipal elections and the bill on the procedure for consideration of applications for asylum. It had held 13 plenary meetings in less than 10 months.

33. The ad hoc Standing Committee against racial discrimination, established in May 1993, had addressed an opinion to the Government on the subject of a bill to reinforce penal sanctions for racist, discriminatory or revisionist acts. The Committee was the only public body of a State party to the Convention to have been invested with the competences set out in article 14.2 of the Convention.

34. On 2 March 1996, the second national Conference for Aliens had stressed the need to give their full weight to the communal Consultative Commissions for Aliens. European Union nationals living in Luxembourg had the right to vote in the communal elections. The determination of the Luxembourg authorities had put an end to racist or anti-Semitic demonstrations or incidents which had not occurred for more than two years. Since 1995, far fewer racist or Nazi graffiti were to be seen in certain public places, on buses and on the walls of buildings. The extreme right movement "Nationalbewegong" had obtained less than 3 per cent of the vote in the June 1994 legislative elections. After losing the civil case brought against it by LICRA (Luxembourg), it had been sentenced to a heavy fine and had dissolved itself because of financial difficulties. Since August 1994, no xenophobic pamphlets had been in the news.

35. After ratifying the Convention, the Government had taken legislative measures to ensure its better implementation. Articles 454 and 455, which had been included in the Penal Code in 1980, punished various types of racist practices. Article 456, introduced in 1993, deprived persons sentenced for racist offences of their civic rights for 5 to 10 years. The Government which had emerged from the June 1994 elections had considered that punishment of racism and other forms of discriminatory behaviour should be further reinforced. In July 1994, the Minister of Justice set up a working group in the Legislative Studies Commission for the amendment of the Penal Code. A sub-group was mandated to give priority to problems relating to racism and xenophobia with a view to preparing amendments to statutes and regulations. A bill, to be submitted to the Chamber of Deputies in April or May 1997, supplemented the Penal Code by making acts of racism or revisionism punishable. It was also designed to punish failure to respect the dead and the violation or desecration of tombs, graves or monuments to the memory of the dead. Article 454 punished acts of discrimination based on origin, sex, race or religion. Article 456 provided for particularly severe penalties for persons entrusted with public service duties who were guilty of discrimination. Article 457-1 punished any form of incitement to hatred or

racial violence. Article 457-3 was innovative in punishing the questioning, minimization or justification of crimes against humanity, war crimes and genocide.

36. The Government had not envisaged provisions which would a priori ban racist organizations. It should be noted that the anti-racist political bodies and NGOs which had been consulted on the subject opposed any such move. However, if an organization of that type infringed anti-discrimination legislation, its members could all be brought to court. An association which committed a serious violation of the law or public order could be disbanded at the request of the Government Procurator's Department or a third party.

37. In primary education, the authorities had made new arrangements to reduce the number of children per class, to set up reception classes for the children of foreigners and to provide courses in the child's mother tongue.

38. In secondary technical education, many measures had been taken to adapt education to the linguistic problems of young foreigners, particularly by distributing bilingual textbooks for civics and geography courses. Syllabuses dealt extensively with problems of discrimination, racism and xenophobia.

39. The new Police and Gendarmerie College attached great importance to awareness of human rights issues. The continuing training of the police included courses on anti-xenophobia legislation and attitudes to aliens. Lastly, the police had been informed that it was an offence to wear, display or sell Nazi insignia.

40. The mass media regularly referred to the situation of aliens, political refugees and asylum-seekers. Numerous radio stations broadcast in the foreign languages spoken in Luxembourg. In the context of the Council of Europe's European Youth Campaign against Racism, Anti-Semitism, Xenophobia and Intolerance the Government had supported vast advertising campaigns against racism and xenophobia. It had also earmarked 10 million francs for the National Committee for the European Year against Racism, launched by the European Union in 1997.

41. Every year, the Immigration Festival attracted approximately 25,000 persons and brought together aliens' associations, political parties, humanitarian and anti-racist associations, the Housing Fund and the Aliens' Board. In their end-of-year statements, HRH the Grand Duke and the Prime Minister always addressed the aliens living in Luxembourg.

42. Referring to the additional information requested by the Committee after considering the sixth, seventh and eighth periodic reports of Luxembourg, he said that in order to implement all the provisions of article 4 of the Convention, the current Penal Code allowed the members of organizations which incited to racial discrimination to be convicted, while the Associations Act permitted such bodies to be disbanded once convicted.

43. With reference to the implementation of article 5 of the Convention, particularly in respect of non-nationals of the European Union, remarkable

progress had been made, as could be seen from the paragraphs of the report concerning legislative measures, especially on social elections and the law of associations.

44. The report contained additional information on article 6, concerning in particular the protection of individuals against racist acts. Steps to promote the teaching of tolerance had also been taken to improve the implementation of article 7.

45. With reference to article 14 of the Convention, the Government had on 28 June 1996 adopted the relevant draft declaration which had been transmitted to the United Nations Secretariat on 8 July 1996.

46. The efforts made by the authorities and civil society towards understanding other people and the cultural diversity characteristic of Luxembourg society made it easier to curb and eliminate racism at its source.

47. Mrs. SADIQ ALI (Rapporteur for Luxembourg) said that the ninth report of Luxembourg revealed the progress which had been achieved in implementing the Convention. She regretted, however, that the Committee's guidelines had not been taken into account in the preparation of the report.

48. She asked whether the Convention could be invoked in the courts and whether, in any conflict between the Convention and domestic law, the Convention took precedence. The previous Rapporteur for Luxembourg, Mr. Diaconu, had not obtained a specific answer on that point either.

49. Referring to paragraph 49 of the report which stated that in 1993 the Government had signed a cooperation agreement with the Liaison Committee for Aliens' Associations to ensure the success of the cultural dialogue and exchanges among associations, she wished to know whether that implied that the integration of aliens allowed them to preserve their identity. She would also like further information on the structure and operation of the Liaison Committee. She asked to what extent the authorities followed up the grievances which the Liaison Committee transmitted to them concerning acts of racial discrimination or xenophobia. She also asked whether the economic and social rights in force in Luxembourg applied to non-EU aliens. With reference to paragraph 64 of the report, she would like to know what was meant by an active and a passive right to vote for all members of trades associations without distinction as to nationality or residence.

50. The Committee would like to know the decision of the European Court of Justice concerning the proceedings instituted against the Luxembourg authorities for violation of article 48 of the Treaty on European Union on freedom of movement for workers (para. 71 of the report). Paragraph 17 of the report stated that, in 1994 and 1995, the gendarmerie and the police had booked four persons for racist and xenophobic acts, in addition to the 138 persons booked during the demonstration of neo-Nazis from Germany, France, Belgium and the Netherlands. She asked what sentences those persons had been given. Paragraph 31 stated that membership of a racist or xenophobic organization was punishable, but that there was no a priori ban on the organization itself, as required by article 4 of the Convention.

51. She welcomed the Government's special measures on housing and the fact that it guaranteed equality of treatment for national and non-national prisoners and assistance to all those with inadequate resources. She would, however, appreciate further information on compensation for the victims of acts of racial discrimination.

52. Luxembourg was to be congratulated on its education policy, and particularly for encouraging a spirit of tolerance. Similarly, the efforts to train the police force in the fight against racism and xenophobia were commendable.

53. She further welcomed the fact that various media broadcast in several foreign languages. Lastly, Luxembourg had declared that it recognized the Committee's competence to receive and consider communications from individuals, thus fully implementing paragraphs 1 and 2 of article 14 of the Convention.

54. Mr. YUTZIS welcomed the progress made by Luxembourg in implementing the Convention. It was clear that the Government of Luxembourg had complied with many of the recommendations which the Committee had made during its consideration of the earlier reports. Referring to paragraph 7 of the report, however, he said that he would like more information on the "negative" aspects of the motivations of the Luxembourg authorities. He had also noticed that, according to paragraph 15, racist or Nazi graffiti could be seen in some public places, on buses and on the walls of certain buildings, although they had become much less common since 1995. In his opinion, the continued existence of such graffiti constituted propaganda which should be stopped.

55. Referring to articles 454 and 455 of the Penal Code (paras. 21 and 22), he said that article 454 (c) punished the advertising of the intention to commit acts of discrimination while article 455 (a) punished incitement to discriminatory acts. He would like to know whether it was incitement to racism that was punished or only racist acts. He considered that a pamphlet inciting to racial discrimination constituted, albeit in a subtle form, a racist act, and would therefore like some clarification. Lastly, he welcomed the measures taken to give aliens living in Luxembourg the right to vote in communal elections.

56. Mr. GARVALOV said that he was very satisfied with the quality of the ninth periodic report of Luxembourg and particularly welcomed the fact that the Government of Luxembourg had taken account of the Committee's recommendations and requests for information following its consideration of the eighth periodic report in 1994. As the Committee had requested, the Government of Luxembourg had given a breakdown of the population by nationality (para. 1). It would be of interest to know how many foreigners living in Luxembourg had applied for naturalization and why certain applications for naturalization had been unsuccessful. He asked whether it should be deduced from paragraph 10 of the core document (HRI/CORE/1/Add.10), which stated that nationality was acquired by birth, according to the theory of jus sanguinis, by choice or by naturalization, that children born to foreign parents in Luxembourg did not automatically acquire Luxembourg nationality.

57. With regard to language status, there was a contradiction between paragraph 11 of the core document, which stated that Luxembourg, French and German were all three administrative languages, and paragraph 76 of the report which stated that Luxembourg was used as the language of oral communication and French and German as the languages of written communication. What was the actual situation? The important measures taken in the sphere of education were commendable. Nevertheless, Luxembourg and the States parties in general should bear in mind that article 7 of the Convention concerned not only school and university education but also applied to law-enforcement personnel, magistrates and government officials.

58. Lastly, he welcomed the fact that the Government of Luxembourg had recognized the Committee's competence under article 14 of the Convention and that it had appointed a body in accordance with paragraph 2. It would be useful to know whether that body, namely, the ad hoc Standing Committee against discrimination (para. 110), had already considered any complaints.

59. Mr. van BOVEN expressed satisfaction that the Government of Luxembourg had acted on the suggestions and recommendations made by the Committee in 1994. He was particularly pleased to note that the Government had introduced a bill to ensure a better implementation of article 4 of the Convention. The report stated in paragraph 36 that the bill made racism, revisionism and other types of unlawful discrimination punishable; it would be interesting to learn what was covered by the term "revisionism" in that context. As the Committee had requested, the Government had furnished statistics of racist offences in the report (paras. 17 and 18). However, they referred only to the number of persons booked for racist and xenophobic offences, and he would like to know whether their perpetrators had been prosecuted.

60. He also welcomed the fact that the State party had made the declaration set out in article 14 of the Convention, and added that, if he was not mistaken, Luxembourg was the first State to establish a national body competent to receive and consider petitions under article 14, paragraph 2 of the Convention. Persons who claimed to be victims of a violation of any of the rights set forth in the Convention should therefore first of all refer their claims to that body. The question was whether both nationals and aliens would be entitled to refer claims to the ad hoc Standing Committee against discrimination, since it had been established under the Integration of Aliens Act of 27 July 1993. The existence of the ad hoc Committee should also be widely publicized.

61. Following consideration of the previous periodic report, the Committee had drawn the State party's attention to the amendment of article 8, paragraph 6 of the Convention and had invited it rapidly to take the necessary steps to adopt the amendment. He reminded members that the amendment had still not entered into force since it had not been adopted by two thirds of the States parties to the Convention. He hoped that the Government of Luxembourg had taken the necessary steps with a view to its ratification.

62. In conclusion, he pointed out that although 14 of the 15 States members of the European Union were parties to the Convention, the agenda of the European Year against Racism made no mention of the Convention. He expressed

the hope that the Government of Luxembourg, which would be President of the European Union during the second half of 1997, would take the initiative of stressing the importance of implementing the Convention in the context of the European Union.

63. Mr. VALENCIA RODRIGUEZ, referring to paragraph 5 of the report, said he would like to know exactly what constituted the policy of integration implemented in Luxembourg in respect of the foreign population and whether it tended to efface the specific characteristics of foreigners. He would also appreciate details of the means used to combat clandestine immigration. He asked whether the racist or anti-Semitic demonstrations or incidents of 1994 (paras. 12 and 13 of the report) had been followed by decisions of a judicial nature.

64. With reference to paragraph 25 of the report, he would like to know why the Convention could not be invoked directly in Luxembourg's courts. He also requested clarification of the scope of the provisions mentioned in paragraph 28 of the report. Referring to paragraphs 31 and 32, he thought that the law should provide for the dissolution of all racist associations. With reference to paragraphs 97 to 100, he was quite satisfied with the measures taken regarding police training. He simply wished to know what the results had been, particularly in relations between the police and aliens.

65. Mr. DIACONU congratulated the Luxembourg authorities on the legislative and practical measures they had adopted to prevent discrimination. As for the implementation of article 4 of the Convention, he thought that, like other countries, Luxembourg should make provision in its legislation for an official ban on racist organizations. With reference to the policy of integration, it was his understanding that Luxembourg's policy was aimed at assimilating aliens while respecting their cultural differences. He asked, for example, whether the many Portuguese who, according to his information, had immigrated in the 1970s, were now citizens of Luxembourg and, in any case, what was done to ensure that aliens or Luxembourg citizens of foreign origin could keep their culture of origin. Lastly, he referred to a problem which would arise increasingly over the next few years, namely, the effects of European citizenship. The member countries of the European Union should reflect on means of achieving a fair balance in their dealings with European and other citizens.

66. Mr. FERRERO COSTA, noting from his perusal of paragraph 16 of the report, that extreme right movements which distributed xenophobic propaganda existed in Luxembourg, asked whether their activity was punishable under article 455 of the Penal Code. If that were not the case, the Committee's 1994 recommendation that Luxembourg should take measures to implement all the provisions of article 4 of the Convention and declare illegal organizations which incited to racial discrimination would not have been fully complied with. Like another member of the Committee, he would like further information about the facts referred to in paragraphs 17 and 18 of the report. He detected a contradiction between paragraph 25 of the report according to which an individual remedy brought before a Luxembourg court could not be based exclusively on the Convention and paragraphs 82 and 83 of the core document

under which international instruments could apply directly in domestic law. Generally speaking, he would like to know how the international Conventions could be invoked in Luxembourg courts.

67. He would also appreciate details of the implementation of the Integration of Aliens Act of 27 July 1993. With regard to paragraph 36 of the report, which referred to charges based on "unlawful discrimination", he would like to know whether lawful discrimination existed. Lastly, while welcoming the fact that Luxembourg had established an ad hoc Standing Committee against discrimination under article 14, paragraph 2 of the Convention, he would appreciate clarification of the position of that body in relation to the courts. In general, he wished to thank the delegation of Luxembourg for the excellent dialogue it had conducted with the Committee.

68. The CHAIRMAN invited the delegation of Luxembourg to answer the questions put by the members of the Committee at the next meeting.

The meeting rose at 1 p.m.

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Fiftieth session

SUMMARY RECORD OF THE 1194th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 7 March 1997, at 3 p.m.

Chairman: Mr. BANTON

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ACTION BY THE GENERAL ASSEMBLY AT ITS FIFTY-FIRST SESSION:

(b) EFFECTIVE IMPLEMENTATION OF INTERNATIONAL INSTRUMENTS ON HUMAN RIGHTS

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The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Ninth periodic report of Luxembourg (CERD/C/277/Add.2) (continued)

1. At the invitation of the Chairman, the members of the delegation of Luxembourg resumed their seats at the Committee table.

2. Mr. WEITZEL (Luxembourg), referring to questions asked by members of the Committee concerning paragraph 25 of the ninth periodic report, said the fact that an individual remedy brought before a Luxembourg court could not be based exclusively on the Convention did not mean that it was in breach of that instrument. National legislation was needed to specify and quantify the penalties, whether they involved sentencing or fines. That was the opinion of the Council of State adopted when the Convention had been ratified more than 30 years previously.

3. With regard to questions about the integration of foreigners, he stressed that assimilation or naturalization was by no means the goal, but merely a possibility. Everyone had the right to maintain his or her separate identity. Obviously, the policy of integration did not entail surrendering that identity. For example, second-generation Luxembourgers of Italian origin continued to maintain cultural ties with their region of origin. Luxembourg also took in many refugees who, after living in Luxembourg for five years, could apply for citizenship, while keeping their identity. In his view, what was involved was a process of change which was different in each generation. He noted that in Luxembourg, intermarriage was commonplace.

4. One question had concerned his Government's approach to the issue of racial discrimination. Luxembourg was loath to rely on prohibitions. Its policy towards immigration focused on integration, tolerance and plurality. From the point of view of civil rights, no distinction was made between Luxembourg citizens, European Union (EU) residents and non-EU residents. That approach worked indirectly to prevent acts of racism and xenophobia.

5. In response to another question, he said that the Liaison Committee for Aliens' Associations (CLAE) was an NGO representing the major immigration associations, with which the State had concluded many agreements in the areas of culture, child care, education and training. The National Aliens' Council was a body consisting of representatives of the Government, the trade unions and management and persons from minority groups elected on a basis of their proportion in the population. It had the power of initiative and could petition the Government, a right which it often exercised. Dialogue was of the essence; in a small country like Luxembourg, the Government could not remain aloof from the population.

6. On a point raised with regard to the rights of non-Europeans, he said that such persons had the same economic and social rights as anyone else if they were resident in Luxembourg and had a work permit. They could be elected to trades associations, and even had an active and passive right to vote.

Through their presence in the National Aliens' Council or trades associations, non-EU citizens thus indirectly participated in the debate on national legislation. That was the case with the recently amended law on racism and xenophobia.

7. The European Court of Justice had ruled that Luxembourg must allow EU citizens to hold posts in the civil service that were unrelated to national sovereignty, and Luxembourg was currently in the process of amending its legislation in order to comply. The reference to nationality had already been deleted from application forms for the competitive examination to enter the civil service, and complaints could be lodged against public or semi-public undertakings which continued to refer to nationality in their application forms.

8. The members of the Committee had focused their attention on article 4 of the Convention. He pointed out that in Luxembourg, an organization could only be prohibited once a court had judged that it had committed a racist act. In the discussion in Luxembourg on the recent law on xenophobia and racism, the conclusions of the Committee had been widely circulated, including among those most likely to be the targets of racial discrimination. The overwhelming opinion had been that there should be no a priori prohibition of racial discrimination. As he saw it, that was a question of method. Under existing legislation, a racist organization could be disbanded and all its members held responsible if the organization was found guilty of committing a racist act. That had a strong deterrent effect. Thus, in the view of his delegation, Luxembourg met the provisions of article 4 of the Convention.

9. Concerning paragraphs 17 and 18 of the report, he said that the reference to four persons having been booked in 1995 was incorrect; in actual fact, the matter had concerned four cases of racist graffiti. As to the 138 neo-Nazis who had been stopped from attacking the German embassy and had been arrested, they had all been non-resident aliens and had been turned over to their authorities. He noted that there had not been a single case under articles 454-456 of the Penal Code concerning the punishment of racism and discriminatory acts. That showed how uncommon such acts were and how well Luxembourg's forward-looking integration strategy was working.

10. The authorities had unfortunately been unable to apprehend the persons who had desecrated the Jewish cemetery in Esch-sur-Alzette, but there had been a massive response on the part of Government and society which had no doubt had a deterrent effect, and there had been no repetition of such acts. Regarding the cases of graffiti, which had been immediately removed, they had declined sharply, but it was very difficult to catch the culprits in the act.

11. As to whether an advertisement indicating an intention to commit a racist act was punishable, he said that that was already covered under Luxembourg's legislation. Clearly, if an employer stated in an advertisement that he did not want to hire foreigners, he would be prosecuted. The issue of pamphlets was more complex, because that also involved legislation on the press. At the current time, new legislation on the press was under discussion, and the question of racial discrimination was being taken into consideration in that regard.

12. He did not know how many persons were naturalized every year, but the numbers were probably in the hundreds. Figures on rejections were not included in statistics because the decision was taken behind closed doors, and only figures on approved applications were made public.

13. Nationality in Luxembourg was decided on the basis of a combined system of jus sanguinis and jus soli. A child could acquire nationality through adoption or if his or her parents became naturalized. Also. at the age of 18, children who had resided in Luxembourg for 10 years, or 5 years in the case of refugees or stateless children, could apply for citizenship. A child not born in Luxembourg but who went to school there could apply for citizenship at the age of 18 too.

14. With regard to Luxembourg's language system, he said that there were three official languages: the Luxembourg language, which was spoken by more than 90 per cent of the population and was a Germanic dialect, German and French. All three were spoken in the administration, and civil servants must attempt to reply to letters in the same language as that in which they had been written.

15. An effort was currently being made to compensate for the handicap experienced in the educational system by children from Romance-language countries.

16. One of the members of the Committee had asked how many persons from Portugal remained in Luxembourg. That was difficult to say, because a multicultural society was a very mobile one. As far as he knew, in 1996 5,000 Portuguese citizens had come to Luxembourg, and 16,000 had returned home.

17. Concerning educational measures, he said that all civil servants received training in the elimination of racial discrimination, and civil servants who committed racist acts were severely punished.

18. Referring to a question on education and inter-cultural affairs, he said there were several private initiatives in those areas, some of which had been jointly financed by various ministries. However, the nature of civil society was such that it was not always possible for the State to monitor every detail of activities undertaken by private entities.

19. He was pleased to report that the training of law enforcement officials had resulted in a situation in which there were very few problems in relations between the police and foreigners. As in many other societies, foreigners sometimes hesitated before approaching the authorities. In addition to the State, there were a number of organizations which sought to assist foreigners in taking the action to which they were entitled. Judicial assistance was available to all complainants and defendants, irrespective of nationality.

20. The declaration under article 14, paragraph 2 of the Convention, provided full recourse for victims of racial discrimination, and the ad hoc standing committee against discrimination, established by the Government, was currently discussing the complex effects of that declaration. There had been

no intention to limit the access of persons under Luxembourg jurisdiction to the Committee on the Elimination of Racial Discrimination. The declaration had been announced at a press conference and published in a special edition of the Journal Officiel, which had been widely distributed to bodies dealing with the subject of racism.

21. Turning to the question asked about the Integration of Aliens Act of 1993, he explained that the Act represented a package of measures which were implemented without discrimination.

22. In response to a question by Mr. van Boven, he said he could not discuss the amendment of article 8, paragraph 6, of the Convention at the present time, but promised to raise the issue with the competent officials in the Ministry concerned; he assured the Committee that he would follow up the matter. Mr. van Boven had also expressed concern that no mention had been made of the European Year against Racism. Luxembourg was in fact involved in the planned activities, and he invited proposals for his Government's consideration concerning the organization of the closing ceremony at the end of the Year.

23. Mr. YUTZIS agreed with the delegation that a vacancy announcement specifying nationality conditions for applicants should be considered racist.

24. He wondered whether the dissemination of propaganda by racist organizations fell within the ambit of the law governing the press and in that connection requested clarification of the legislative interpretation of pamphlets and other publications.

25. Mr. ABOUL-NASR said that, in his opinion, the ad hoc standing committee against racism corresponded exactly to the requirements of article 14, paragraph 2. He did not agree with Mr. Yutzis' comment about nationality requirements for certain types of jobs, as there were legitimate instances in which such requirements were relevant to the job in question.

26. Mr. YUTZIS pointed out that he had simply been quoting the words of the representative of Luxembourg.

27. Mr. van BOVEN observed that many countries had difficulties in banning organizations as a preventive measure; it was only when those organizations had systematically transgressed the law that action could be taken. Although the issue had not been resolved, the Convention took a clear line, and the Committee had taken a more mandatory stance on the matter than many States parties.

28. With reference to article 14, he noted with interest that Luxembourg had been the first country to make a declaration under both paragraphs 1 and 2 of that article. He asked about the nature of the ad hoc standing committee and whether the public was aware of its procedures. As he understood it, an applicant was obliged, in the first instance, to go before the standing committee before addressing the Committee on the Elimination of Racial Discrimination. He wondered whether Luxembourg had understood the full implications of the declaration made under paragraph 2.

29. Mr. GARVALOV asked whether the ad hoc standing committee had already received and considered petitions.

30. Mr. CHIGOVERA asked to what extent existing laws made provision for a racist organization which specifically stated in its statutes that its objective was the preservation of a particular race.

31. Mr. WEITZEL (Luxembourg) assured Mr. Yutzis that his reference to pamphlets concerned subtle cases in which there was no direct evidence of incitement to racial hatred. The fact that the question had been raised indicated that his Government needed to continue its study of the various facets of the issue.

32. He said he was somewhat surprised at the direction the discussion of article 14, paragraph 2, was taking. No petitions had as yet been brought before the standing ad hoc committee because its internal procedures had not yet been finalized. In adopting the declaration under paragraph 2, his Government had not anticipated the reaction currently being expressed in the Committee. It would welcome further feedback and would keep the Committee informed of subsequent developments.

33. On the question of the prohibition of racist organizations, current legislation made it possible to disband such organizations only a posteriori. In response to Mr. Chigovera's query, he said the publication of statutes inciting racial hatred was an offence; however, no such statutes had been published since the late 1980s.

34. Mr. DIACONU said the declaration made by Luxembourg was important for the implementation of the Convention. The principle of subsidiarity should apply in the case under discussion.

35. With reference to article 4, States parties were not required to take decisions before organizations had committed offences, but they were required to enact legislation to sanction such offences in the event that they occurred.

36. Mrs. SADIQ ALI thanked the delegation for the thoroughness with which it had responded to the main issues of interest to the Committee. She looked forward to further discussions when it submitted its tenth periodic report.

37. The delegation of Luxembourg withdrew.

ACTION BY THE GENERAL ASSEMBLY AT ITS FIFTY-FIRST SESSION

(b) EFFECTIVE IMPLEMENTATION OF INTERNATIONAL INSTRUMENTS ON HUMAN RIGHTS (agenda item 8) (A/51/482)

38. The CHAIRMAN, introducing the report of the seventh meeting of persons chairing the human rights treaty bodies (A/51/482), said that his conception of the items to be considered as a matter of priority by the chairpersons had not been reflected in the priorities addressed at the meeting itself and he would appreciate members' views in anticipation of the next meeting. It was

questionable whether the presence of the large number of representatives of United Nations bodies and specialized agencies other than the treaty bodies, listed in paragraph 6 of the report, was entirely warranted, and whether all the documents listed in paragraph 11 were relevant to the topics for discussion. The chairpersons had reviewed recent developments relating to the work of the treaty bodies they represented and it could be seen from paragraph 23 that he had drawn particular attention to the Committee's proposal of a new procedure for examining seriously overdue initial, as well as periodic reports, by States parties. Under the section "Promotion of international human rights treaties", he would have liked more attention to have been given to the question of the failure of some States to fulfil their reporting obligations and the increasing reporting burden upon States deriving from treaty bodies' requests for information, referred to in paragraph 28 of the report. The report of the independent expert, Mr. Philip Alston, on ways of enhancing the effective operation of the treaty system was awaited with keen interest.

39. Mr. BRUNI (Secretary of the Committee) informed the Committee that that report was to be issued as a document for the forthcoming session of the Commission on Human Rights, and would therefore be available to the Committee in all languages for discussion at its fifty-first session.

40. The CHAIRMAN said that the Committee should allow time in its agenda for the fifty-first session for a discussion of that report so that he could present its views at the next meeting of chairpersons in September 1997.

41. On the question of treaty bodies' external relations, the chairpersons' recommendation in paragraph 33 was a step towards ensuring continuity in the chairpersons' work between their annual meetings, as had been advocated at its sixth meeting, when Mr. Garvalov had represented the Committee. He drew attention to paragraph 37 and to the importance of information on the work of the treaty bodies now available on the Internet. The question of Secretariat support and the plans to restructure the Centre for Human Rights had taken up a great deal of time at the chairpersons' meeting. Finally, the recommendation in paragraph 62 that treaty bodies should be as specific as possible in elaborating their concluding observations was also relevant to the question of easing States parties' reporting burden. Specific indications to States parties of the kind of information required in the next report would help them in preparing their reports. He recalled that alternative suggestions for easing the reporting burden had been for States parties to submit a consolidated report to all treaty bodies, or to be asked to submit thematic reports, although he considered that to be more relevant to other treaty bodies than to the Committee.

42. Mr. GARVALOV said he was pleased to note that the Chairman had drawn attention to the Committee's new procedure for considering seriously overdue initial reports. With regard to the election of the Chairperson of the meeting, referred to in paragraph 14, he wondered why the principle of rotation had been specifically mentioned, since that principle had already been agreed upon at the sixth meeting. The reference to "any new human rights treaties" in paragraph 25 prompted him to comment that he took it to have already been agreed that existing human rights treaties were sufficient.

43. He welcomed the reference in paragraph 28 to the failure of some States to fulfil their reporting obligations, which was one of the main problems treaty bodies faced, adding that responsibility for reporting lay solely with States parties. Placing the onus for publicizing the principal international instruments on members of the treaty bodies, as was recommended in paragraph 30, overstepped the mandate of members and encroached on their independence. He agreed with the recommendation in paragraph 32 that national human rights institutions and NGOs should take a more active role in reporting on measures taken to promote knowledge of the human rights treaties. He welcomed the content of paragraph 34, and the call to the Economic and Social Council to amend the rules of the Commission on Human Rights, which amounted to enhancing the status of the treaty bodies, and of paragraph 36 concerning constructive criticism of the treaty bodies' work by NGOs. The wording of paragraph 38 was unclear; he failed to see why NGOs should be specifically invited to attend the press conferences at the end of sessions and why there should be a restriction on their participation in the dialogue.

44. The first sentence of paragraph 40 was worded rather more critically than it should have been. He, and no doubt other members, had been consulted and asked to comment on the planned restructuring of the Centre for Human Rights. With reference to paragraph 53, he asked whether the chairpersons had been informed of the agreement between the Committee and the Sub-Commission on Prevention of Discrimination and Protection of Minorities to undertake a study on article 7 of the Convention, which was a significant example of cooperation between treaty bodies.

45. He regretted that early-warning and urgent procedures had not been given due emphasis in the report. The Committee, which had been among the first to adopt and act upon such procedures, had built up some experience which it might usefully have shared with other treaty bodies. He would also have expected more attention to have been given to strengthening direct communication between the chairpersons and the Secretary-General, inter alia, through the High Commissioner for Human Rights, as had been the explicit understanding reached at the first meeting with the Secretary-General in June 1995. He was in favour of the closest possible cooperation between bodies concerned with human rights within the United Nations system - primarily between the treaty bodies, but also with other organs, including the Security Council.

46. The CHAIRMAN explained in connection with paragraph 14 that the principle of rotation had been specifically reaffirmed because the chairpersons had provisionally departed from it. Regarding the recommendation in paragraph 30 about members' publicizing the principal international instruments, he believed that most members, jointly and severally, did that in principle. He fully endorsed what Mr. Garvalov had said about paragraph 34 and withdrew his earlier remarks.

47. Mr. BRUNI (Secretary of the Committee), explaining the background to paragraph 38, said that the traditional press conferences were held in response to the concern of journalists to have a face-to-face meeting with members of the Committee, preferably - for purely professional reasons - without the presence of others. The first sentence of the paragraph was intended to meet those concerns but at the same time those of the NGOs

themselves and of members of the treaty bodies who felt that NGOs should be able to benefit in some way from the information given to the press. Where that did not prove possible, it had been felt that NGOs should be given an opportunity, if the treaty body agreed, to participate in a similar direct dialogue with members, which explained the second sentence.

48. The CHAIRMAN said that he would be offering NGOs the opportunity to take part in a direct exchange of views, independently of the press conference, at the end of the current session.

49. On the subject of paragraph 40 concerning the plans to restructure the Centre for Human Rights, he said that continuing staff anxieties and the great difficulty experienced by the chairpersons in clarifying the issues involved had revealed the shortcomings of the consultations on restructuring plans that covered every aspect of the Centre's work. The recommendation in paragraph 53 had been suggested by a member of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, a United States national participating as an observer, who had been well aware of the arrangements for a joint review of article 7. The fact that that topic did not hold the same interest for other treaty bodies, however, might explain the omission of any mention of the study now under way.

50. He endorsed the comments made by Mr. Garvalov about the omission of references to early-warning and urgent procedures and strengthening links with the Secretary-General. It had emerged from an exchange of correspondence between Ms. Corti, acting on behalf of the chairpersons, and the new Secretary-General that there might be an opportunity for a meeting in Geneva in September, at which the question of strengthening links with the Secretary-General would certainly be a priority. On the subject of cooperation among the treaty bodies, he agreed that a solution should be found, but in a way that did not add further to the calls on members' time. The system of appointing members to liaise with those of other treaty bodies had not proved successful and the current contacts between chairpersons often amounted to little more than the transmission of the respective treaty bodies' concluding observations.

51. Mr. van BOVEN endorsed the statement made by Mr. Garvalov, particularly regarding the agenda item on the prevention of human rights violations, including early-warning and urgent procedures, which had not been discussed at the meeting. That might have been due to lack of time or decline in interest in the question.

52. The sentiment expressed in paragraph 32 of the report was commendable, given the important role played by national human rights institutions, their relevance to the implementation of the Convention and the vital importance to the Committee of information provided by NGOs.

53. The restructuring of the Centre for Human Rights, mentioned in paragraph 42, was of the utmost concern in that it closely affected the work of the Committee. He also fully supported paragraph 44 of the report. Members of the Committee could not effectively prepare themselves for forthcoming sessions if they were not provided with the documents they needed in good time.

54. Paragraph 53 touched on another subject of vital importance to the effective functioning of the Committee. Cooperation with the Sub-Commission and rapporteurs and other experts appointed by the Commission on Human Rights was an integral part of the work of the Committee in that they could provide information on topics and areas of relevance to the question of racial discrimination.

55. Mr. ABOUL-NASR agreed with Mr. Garvalov and Mr. van Boven, particularly concerning the question of secretariat support. Developments in the Centre for Human Rights were completely incomprehensible. There was a lack of both continuity and resources, which had left the Centre facing its worse crisis ever.

56. The contents of the report should be taken merely as recommendations. Each human rights treaty body could take from the report the parts of relevance to its particular mandate. The report did, however, concentrate too heavily on the contribution of NGOs to the work of human rights treaty bodies. Although there was no disputing the quality of the work of those organizations, the Committee should guard against politicization and giving greater credence to information from NGOs than that submitted by reporting States. At his proposed meeting with representatives of NGOs the Chairman should act in a personal capacity, and it should be borne in mind that there was little or no representation of NGOs or regional organizations from developing countries, which was unacceptable, as was the fact that developing countries did not have access to the Internet.

57. He could not see why the question of gender perspectives had been on the agenda, unless it had been the result of pressure from NGOs.

58. Mr. VALENCIA RODRIGUEZ observed that the General Assembly had approved the Committee's procedure for considering States' initial reports when they were seriously overdue. He agreed with Mr. Aboul-Nasr that the contents of the report amounted only to recommendations.

59. Mr. AHMADU said that the Committee should make every effort to preserve its particular identity and choose from the recommendations made in the report those that were both relevant and useful.

60. It was unacceptable that essential documents were not being sent to members of the Committee in good time, if at all. That was a serious impediment to members' work. There should be a fast and efficient delivery service.

61. He agreed with Mr. Aboul-Nasr's comments on the subject of NGOs and the state of secretariat support.

62. The question of the presence in the meeting room of members of the Committee during discussions relating to their country should be decided on by the Committee or left to the individual member's discretion.

63. Mr. FERRERO COSTA voiced concern at the failure of the meeting to deal with the question of early-warning and urgent procedures, for preventing human rights violations. That should be on the agenda for the next session. The

recommendation in paragraph 25 of the report should be disregarded as it undermined State sovereignty. NGOs played a vital role in the work of the Committee and had every right to provide the Committee with any information they felt should be brought to its attention. He too would welcome clarification from the Centre for Human Rights on recent developments relating to restructuring.

64. Ms. ZOU Deci said that she, too, agreed with Mr. Aboul-Nasr on the question of the participation of NGOs, particularly as their sources of financing were not always clear.

The meeting rose at 6.05 p.m.

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Fiftieth session

SUMMARY RECORD OF THE 1195th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 10 March 1997, at 10 a.m.

Chairman: Mr. BANTON

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Nepal

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The meeting was called to order at 10 a.m.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY-WARNING AND URGENT PROCEDURES (agenda item 4) (continued)

Bosnia and Herzegovina

1. At the invitation of the Chairman, the members of the delegation of Bosnia and Herzegovina took seats at the Committee table.

2. Mr. JERKIĆ (Minister/Counsellor, Ministry of Foreign Affairs of Bosnia and Herzegovina) informed the members of the Committee about the current situation in his country. He recalled the consequences of the terrible tragedy it had experienced from 1992 to 1995, in particular the "ethnic cleansing", a euphemism designating the extermination of an ethnic group: more than 200,000 people had been killed, and as many wounded; 13,000 persons had been disabled; 20,000 children had been orphaned; and more than 20,000 people were reported missing. Furthermore, almost half of the country's pre-war population were now in exile, and its entire economic and social infrastructure had been destroyed. The situation was therefore extremely complex, and, 15 months after the signing of the Dayton Peace Accords, Bosnia and Herzegovina was still facing enormous problems.

3. Among the negative aspects was the lack of a political will among the parties in power and the fact that the real problems were not being confronted directly. Unless all the institutions needed at the State level to establish the rule of law were set up, it would be very difficult to make headway with national reconstruction.

4. Among the positive elements, it should be noted that the Constitution established the highest possible standards in the field of the protection of human rights. Some 22 international instruments had been incorporated into the Constitution and were now an integral part of it. The two mechanisms called for by the Dayton Accords, namely, the ombudsman and the Human Rights Chamber, were functioning. There was also one commission to handle the problems of displaced persons and refugees, and another to study property claims. With the help of experts from the Council of Europe, an effort was being made to align the constitutional provisions of the two component entities of Bosnia and Herzegovina with those of the national Constitution. Despite that strong legal framework, however, the consequences of the war were difficult to overcome, and, in order to move forward, it was essential that the parties in power should show political will and that the international community act in unison.

5. Mr. van BOVEN (Country Rapporteur) welcomed the presence of the delegation of Bosnia and Herzegovina, stating that the urgent procedure was even more valuable when the Committee could hold a dialogue with the State party concerned. He stressed the fundamental importance of the Convention in relation to the situation in Bosnia and Herzegovina.

6. He wished to take advantage of the presence of the State party's representatives to inquire what kind of contribution the Committee could make. He recalled the two decisions adopted by the Committee on Bosnia and Herzegovina at its forty-eighth and forty-ninth sessions and quoted several passages therefrom. Unfortunately, the specific proposals made by the

Committee in those decisions had been largely ignored, no doubt because they had not been brought to the attention of the competent persons. He had recently sent a message to the High Commissioner for Human Rights asking him to consult his representatives in Sarajevo on the matter and to request their views on a possible role for the Committee, but had not yet received a reply. He also noted that the Special Rapporteur of the Commission on Human Rights on Bosnia and Herzegovina, who had stated in his report that education in the field of human rights was a critical need in all parts of the former Yugoslavia, had not taken up the Committee's offer on that matter. He regretted the lack of coordination between the secretariats, stressed the need to ensure that the Committee's decisions were indeed conveyed to the persons to whom they were addressed and inquired what the delegation's initial reaction was to the proposals made by the Committee at its previous sessions.

7. Mr. RECHETOV welcomed the continuation of direct contact with State party representatives. Following the elimination of apartheid in South Africa and the historic Middle East accords, everyone hoped that the region of Bosnia and Herzegovina would also become one of stable development. Noting that Macedonia had already submitted a report to the Committee and that Yugoslavia was preparing to do so, he wondered when Bosnia and Herzegovina was planning to submit its report and whether the "entities" referred to by the representative would take part in the drafting process and be invited to present their views.

8. He asked whether it was true that no one had been tried by the international Criminal Tribunal in The Hague for the crime of "ethnic cleansing" and whether any inquiries had been conducted to obtain precise information on that phenomenon, which undoubtedly constituted the principal human rights violation committed during the war.

9. Mr. de GOUTTES fully endorsed the observations of Mr. van Boven on the follow-up to the Committee's recommendations. Rather than making more and more recommendations, it was important to ensure that those adopted were followed up. The delegation should furnish more complete information on the human rights institutions to which it had referred. A preliminary assessment of their activities and of the functioning of the International Tribunal would enable the Committee to determine more precisely the specific contribution it might make.

10. Mr. ABOUL-NASR also wished to ask the delegation what type of assistance the Committee could provide. The Committee could not at present ask Bosnia and Herzegovina to submit a report, as the country was just emerging from an extremely serious episode in its history.

11. He did not think that persons who represented "entities" as opposed to the Government could be invited to submit the report. It was for the Government to decide the composition of its delegation.

12. He hoped that the delegation would express its views on the International Criminal Tribunal in the Hague.

13. Mr. SHERIFIS said the Committee should confine itself to consideration of the implementation of its recommendations on Bosnia and Herzegovina. The government representative had referred to the tragedy of ethnic cleansing. Nothing could justify that practice, and the guilty should be prosecuted. At

its forty-second session, the Committee had adopted General Recommendation XVII, on the establishment of national institutions to facilitate the implementation of the Convention. That recommendation should be put into effect, particularly with regard to the implementation of article 5 of the Convention. It was for States parties to decide on the composition of their delegation.

14. Mr. WOLFRUM said he hoped that the next reports of Bosnia and Herzegovina would inform the Committee of measures taken in aid of the many refugees and displaced persons on its territory. Perhaps the Committee could be of assistance to it in that field?

15. Mr. JERKIČ (Bosnia and Herzegovina) expressed his gratitude to the members of the Committee who had clearly stated that it was for States parties alone, as sovereign bodies, to determine the composition of their delegation.

16. The Ministry of Foreign Affairs was one of the main institutions responsible for implementing the Dayton Accords. In order to prepare for the present meeting, it had sent a letter to the Croat-Muslim Federation and the Serbian Republic of Bosnia, asking for information that might have been useful to the Committee. Only the Federation had responded. He was aware of the fact that, in submitting a report on the implementation of the Convention, his country would benefit from the assistance and advice of the Committee. Every effort would therefore be made to submit the report as soon as possible.

17. His Government believed that cooperation between the persons and institutions endeavouring to assist Bosnia and Herzegovina could be improved. There was frequently some overlap between the various programmes implemented or resources were misdirected.

18. He urged the Committee not to abandon Bosnia and Herzegovina, as the problems remained. Contacts could be closer between the Government and persons dealing with human rights, whether in Geneva or in Bosnia and Herzegovina. As to education in the field of human rights, the Committee could make proposals and recommendations to the Government.

19. Although ethnic cleansing was no longer occurring on the same scale as before the Dayton Accords, there were still discriminatory policies which used subtler methods with regard to either employment or property.

20. On the subject of the International Criminal Tribunal, real cooperation was needed between all the interested parties and between them and the Tribunal, but that was currently lacking. The perpetrators should be punished, not only legally but also psychologically, so as to enable the reconstruction of the country to go ahead and to ensure that the efforts it had made had not been in vain. The Government was doing everything in its power, but was relying on the international community to encourage the cooperation of those who were not cooperating in order to restore confidence in the country.

21. The CHAIRMAN assured the delegation that the Committee would not abandon Bosnia and Herzegovina, or indeed any group or person entitled to protection under the Convention. The Committee had taken the case of Bosnia and Herzegovina to heart. He welcomed the delegation's suggestions for increased

contacts between the Government and the United Nations. The Committee would remain in contact with the Government so as to take any further step that might be appropriate under the urgent procedure.

22. The delegation of Bosnia and Herzegovina withdrew.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Status of implementation of the Convention in States parties whose reports are excessively overdue

Jordan

23. At the invitation of the Chairman, the members of the delegation of Jordan took seats at the Committee table.

24. Mr. HADDAD (Jordan) commended the Committee for the efforts it was making to eliminate all forms of racial discrimination throughout the world. His Majesty King Hussain and His Highness the Crown Prince stressed in all their statements, both in Jordan and abroad, the need to strengthen democracy, to ensure the rule of law, and to eliminate racial discrimination, violence and terrorism. Jordan disseminated all the human rights instruments in Arabic and put them into effect. National law could not contravene those instruments, including the Convention. In recent years, the Government had taken many steps to combat racial discrimination and was currently preparing a detailed report on implementation of the Convention, which it would submit to the Committee during the course of the year.

25. Article 6, paragraph 1, of the Constitution provided that all Jordanians were equal with regard to rights and obligations, irrespective of their ethnic origin, religion or language. Under article 22, paragraph 1, all Jordanians had the right to hold posts, permanent or otherwise, in public departments, depending on their competence and skills.

26. In 1991, Jordan had established the main features of its social and political activity in a National Charter, paragraph 7 of which provided for respect for the human being and his right to express a different opinion. The preamble of the Charter stated that Jordanian men and women were equal before the law, irrespective of their ethnic origin, religion or language.

27. Article 20 of the Political Parties Act of 1992 stated that Jordanians had the right to form political parties, provided that those parties respected the Constitution and the rule of law, the principle of political plurality, and the independence and security of Jordan. Political parties were required to combat violence in all its forms, and ethnic discrimination. Article 24 made any violation of those provisions punishable by law.

28. Article 40 of the Press and Publications Act of 1993 banned any publication that denigrated any religion, while article 4 banned publications that endangered national unity or incited criminal acts. Article 8 stated that no publication could contain articles which infringed the dignity or reputation of citizens. Any violation of the provisions of that Act carried a fine, but the Government had initiated a reform aimed at increasing the relevant penalties.

29. In 1996, the Government had enacted a law establishing the Centre for Studies on Freedom, Democracy and Human Rights. Article 7 (a) of that law penalized any violation of human rights and was aimed at protecting citizens against any form of religious discrimination. Article 7 (c) dealt with respect for Islamic tradition. Article 8 provided that any violation or abuse brought to the Centre's attention would give rise to legal action.

30. Following government initiatives, measures had recently been taken to authorize the presence of Amnesty International on Jordanian territory and to permit the establishment of a human rights defence group and the activities of an Arab human rights organization, whose steering committee had recently been formed.

31. He read out several articles from the Jordanian Penal Code, particularly articles 150, 151, 152 and 276, which stipulated that fines or prison sentences could be imposed for any incitement to racial discrimination, any insult or attack against any religion, or any disruption of order within any kind of religious assembly.

32. He stressed that his Government was prepared to cooperate actively with the Committee in all areas within its competence.

33. Mr. van BOVEN (Country Rapporteur) said he was very pleased that Jordan had renewed its dialogue with the Committee, given that its periodic report was long overdue; that lapse was not, however, systematic, as Jordan had reported regularly to the Human Rights Committee, the Committee on the Rights of the Child and the Committee against Torture.

34. The representative of Jordan had said that racial discrimination did not exist in his country; in fact, that was what Jordan had already stated in its eighth periodic report, considered in 1990 (CERD/C/183/Add.1, para. 120). However, the Committee was not entirely convinced by statements of that sort, as racial discrimination was defined extremely broadly in article 1 of the Convention and it was difficult to be certain that no discrimination existed in any of the areas cited. The Jordanian authorities should specify whether equal rights really existed in all respects for the Jordanian Bedouins and Palestinians, for example. In its next report, whose publication had already been announced, Jordan should not merely quote legal texts but should devote more attention to the actual situation.

35. With regard to article 8, paragraph 6, of the Convention governing the activities of the Committee, the General Assembly had adopted an amendment by which the Committee's expenses would henceforth come under the regular budget of the United Nations, and had recommended that States parties should ratify the amendment. The amendment would have to be ratified by two thirds of all States parties in order to enter into force. He hoped that Jordan would agree to the amendment, which was entirely a matter of form, and ratify it without hesitation.

36. Mr. WOLFRUM asked the representative of Jordan to say whether the Convention and other human rights treaties had to go through a process of incorporation into Jordanian law before becoming an integral part of that law, or whether they could be invoked directly. During the consideration of

Jordan's sixth and eighth periodic reports, the Committee had been told that a certain proportion of seats in the Jordanian Parliament were reserved for members of minorities. Was that rule still in effect?

37. Like the Country Rapporteur, he was somewhat sceptical of assertions that racial discrimination did not exist in a particular society. The next report of Jordan should dispel that scepticism and to that end should not be limited to restatements of constitutional law: it should provide concrete information on the implementation of the Constitution and the daily use to which it was put. The statistics that appear in that report would be very useful.

38. Mr. de GOUTTES agreed with Mr. van Boven that the Committee found it difficult to accept wholeheartedly the assertion that there was no racial discrimination in a particular country. However, after having made such a statement, the representative of Jordan had referred to criminal legislation making an act of racial discrimination a criminal offence, if only on a preventive basis that in itself represented an initial response to the concerns of the Committee.

39. According to the eighth periodic report of Jordan (CERD/C/183/Add.1, para. 51), candidates for naturalization should not compete with Jordanians on the labour market. At that time (1990) the Committee had raised the question whether such a provision might not have discriminatory effects vis-á-vis article 5 (e) (i) of the Convention. He asked for additional information on that point. The delegation did not have to respond immediately but was at liberty to do so in its next periodic report.

40. Mr. ABOUL-NASR said that Jordan was known throughout the Arab world as a land of asylum where many strangers fleeing less hospitable countries settled permanently. Undoubtedly the next periodic report would refer to the non-Jordanians, of whom many, such as Armenians and Palestinians, played a prominent role in Jordanian society. Egypt, of which he was a national, looked to the example of Jordan to give effect to article 4 of the Convention, in its own Penal Code, so as to minimize the risks involved in proclaiming, no doubt somewhat hastily, that racial discrimination did not exist.

41. He was not sure that it was really discriminatory for a State to adopt a policy of giving priority to nationals in the field of employment. The European Union, for example, did exactly that. Perhaps the members of the Committee with competence in that field would be asked for their views.

42. Mr. AHMADU said he was greatly looking forward to receiving the next periodic report of Jordan. Aside from Egypt, it seemed to be the Arab country whose women enjoyed the greatest emancipation, and he very much hoped the report would include a section or chapter on women. The report should also describe institutions for minority groups, since there were apparently some discriminatory employment rules in Jordan. On that issue the question arose whether the implementation of such rules was not based on prior agreements.

43. Mr. SHERIFIS stressed the importance for the Committee of engaging in regular dialogue with all States parties to the Convention. As the Country Rapporteur had said, Jordan should ratify the amendment to article 8, paragraph 6, of the Convention as soon as possible.

44. It was well known that Jordan had an excellent human rights record. It was precisely because of that good record that the Government should consider making the declaration under article 14 of the Convention, by which the State party recognized the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by that State party of any of the rights set forth in the Convention. Most States parties to the Convention had refrained from making such a declaration. but the Committee would welcome the possibility of engaging in an ongoing dialogue with Jordan.

45. Mr. HADDAD (Jordan) said that as soon as he returned to Jordan, at Mr. van Boven's request, he would encourage the Government to ratify the amendment to article 8, paragraph 6, of the Convention.

46. Addressing himself to all members of the Committee he said that Jordan had made a serious commitment with regard to implementation of the Convention. It took precedence over all national legislation, and once a foreigner was naturalized, he fully enjoyed all the rights accorded to Jordanians born in the country. The law could not be circumbented in that regard. As to the electoral law, the division into districts was carried out in accordance with a list annexed to that legislation. The districts of the capital, Amman, had always reserved a number of seats for circassians, Chechens and so forth. Christians, who represented 4 per cent of the total population, had more than 11 per cent of the seats in Parliament reserved for them.

47. He and his colleagues would endeavour to answer precisely all the questions raised by including as many concrete statistics as possible in Jordan's next periodic report.

48. The CHAIRMAN said that the Committee would have more time available when it came to deal with that report. The present resumption of contact with the State party, however, had already proved extremely useful.

49. The delegation of Jordan withdrew.

Nepal

50. At the invitation of the Chairman, Mr. Simkhada (Nepal) took a seat at the Committee table.

51. Mr. SIMKHADA (Nepal) said that constraints on human resources, and the rapid political changes under way in Nepal, were responsible for the reporting delay. However, with the technical assistance of the Centre for Human Rights, his Government should be able to submit its periodic report shortly, for consideration by the Committee at its next session. It was being prepared by the Ministry for Women and Social Welfare.

52. In the meantime, Nepal had undergone a major political and institutional transformation, which had improved the situation of human rights, including the elimination of racial discrimination.

53. Since the political transformation initiated in 1990 by the People's Movement, Nepal had become a popular democracy with a constitutional monarchy. The 1990 Constitution guaranteed basic human rights to every citizen; adult

franchise; a parliamentary form of Government; and a multi-party system. It also guaranteed the independence of the judiciary and the legislature, with a democratically elected Parliament.

54. The Constitution prohibited discrimination against any citizen on grounds of religion, race, sex, caste, tribe or ideological conviction. Any discrimination against untouchables was punishable by law. The right to constitutional remedies was guaranteed. A bill on compensation for torture victims had been passed by the House of Representatives in 1996 and an act establishing an independent human rights commission answerable to Parliament had been promulgated.

55. All those developments had resulted in a positive change in the human rights situation in general, which would be reflected in Nepal's next periodic report.

56. Mrs. SADIQ ALI (Country Rapporteur) said she was pleased that Nepal intended to submit information to the Committee at its next session. She hoped that on that occasion the State party would give the Committee all the information it needed on the many positive developments that had taken place in the country since its previous report, submitted in 1987. The Committee would also be pleased to receive the excerpts from the Constitution which had a bearing on the Convention and to learn what important residual powers the King continued to exercise.

57. Under the Constitution, Nepal was not a Hindu State. Nonetheless, there was concern among non-Hindus that a constitutional prohibition of the conversion of other persons could be used to limit the expression of religious beliefs. Was that provision still in force?

58. Given that Nepal had over 75 ethnic groups speaking 50 languages, the Committee also needed to know the ethnic composition of the population, particularly in the underdeveloped areas. Since the Constitution protected the right of each community to preserve and promote its language, script and culture, to operate schools up to the primary level in its mother tongue and to conduct lessons by radio in the local language, she would welcome more information on the innovative methods used and the number of tribes they covered.

59. In the light of reports from human rights groups that the languages of some ethnic communities were nearly extinct and other groups were losing their culture, it was essential that the Committee should receive detailed information on those matters.

60. Discrimination against certain castes and vulnerable groups, including women in the rural areas of western Nepal, was widespread, despite the provisions of the Constitution prohibiting any discrimination on grounds of sex or caste. That state of affairs seemed to indicate that the Government had not taken effective action to implement the provisions.

61. Recalling that in its report of October 1995 (A/50/40), the Human Rights Committee had said it was disturbed by several practices linked to the caste system, she asked whether there were any provisions prohibiting the exploitation of certain castes and whether any measures had been taken to

eliminate that backward system, in conformity with articles 1 and 2 of the Convention. She would also like to know how many persons, if any, had been punished pursuant to those provisions.

62. It would also be interesting for the Committee to know whether the Government had attained the main objective it had mentioned during consideration of the previous report (see CERD/C/SR.787), namely, to remove imbalances between regions in terms of infrastructure and public services, for example. Could the Government provide the relevant social indicators?

63. With regard to article 3, she inquired whether forced or compulsory labour and slavery were still being imposed on members of certain castes, particularly in the countryside. What action had the Government taken or was it planning in order to put an end to those practices?

64. With reference to the implementation of article 4, she inquired whether the new Government intended to withdraw the reservation it had expressed in submitting its previous report. Concerning article 5, she wished to know the composition, terms of reference and procedures of the permanent human rights commission established by Parliament to investigate human rights abuses.

65. She commended Nepal for having established, by Act No. 2047 of 1990 relating to treaties, the primacy of international instruments, including the two International Covenants and the Convention against Torture, over domestic law.

66. She asked the delegation to explain the procedure for the proclamation and administration of a state of emergency and the derogations permitted. The Government should also explain the quasi-judicial authority given to the Chief District Officer for directing the police to prevent public disturbances and violence. To what extent did the Supreme Court ruling that the 1992 Labour Act and the 1991 Nepali Citizenship Act were unconstitutional affect the implementation of article 5 (e) (i) and (iii) and (d) (iii) of the Convention?

67. Nepal prohibited torture, but it was not defined as a crime, as required by the Convention against Torture. Did the Government intend to reconsider that question? How many people had been compensated under the Compensation Act passed in 1996?

68. Noting that an amnesty had been announced for all political prisoners, she inquired whether it applied to the detainees in the prisons of central Nepal. There was perhaps a contradiction between that information and the report from the United States Department of State that more than 3,000 persons were being held while awaiting trial. Could the delegation provide more information?

69. In connection with article 5 (e) (v), she wished to know the results of the Government's 12-year literacy programme, directed at 8 million people aged between 6 and 45.

70. In relation to article 6, she asked whether there had been any cases of racial discrimination in which the plaintiffs had been able to take their case before a competent national court with the assistance of an attorney, given that court-appointed lawyers were designated only upon request, which was

unfair to victims who were unaware of that possibility. Similarly, she wished to know whether the Government planned to reduce the cost of bail and other legal fees so as to facilitate access to justice for persons of limited means.

71. States parties were obliged periodically to provide information on measures they had adopted to give effect to article 7.

72. She asked why there were 4,000 refugees without identity cards in the Kathmandu valley and whether the acts of discrimination perpetrated by the former regime against the Tibetan refugees had ceased.

73. Citing the European Parliament report that conditions in the refugee camps had deteriorated, especially as concerned medical care and education, she inquired whether the Governments of Bhutan and Nepal had reached an agreement to organize the early voluntary repatriation of the refugees and whether progress had been made in that regard.

74. It should be stressed that the text of the Committee's report and concluding recommendations should be distributed in all the main languages of the country, so that they could be the subject of public discussion. The Convention should be included in school curricula and in training for the judiciary, judges and law enforcement officials, and its main provisions should be brought to the attention of the general public.

75. Under article 8, States parties were called upon to pay their contributions so that the Committee could function effectively. She called upon Nepal to make the declaration under article 14 on communications from individuals claiming to be the victims of violations of rights under the Convention.

76. Mr. FERRERO COSTA expressed the hope that Nepal would submit its next report as soon as possible and called upon it to withdraw its reservations to articles 4 and 22 of the Convention. It should also send the Committee the text of Act No. 2047 of 1990 relating to treaties, which provided that the Convention could be directly invoked in domestic law. He further hoped that Nepal would provide the information asked of it 10 years earlier on measures taken to ensure the implementation of articles 6 and 7 of the Convention.

77. Mr. de GOUTTES inquired whether the reservation referred to by Mrs. Sadiq Ali concerned only article 4 or whether it was broader in scope. He hoped that Nepal would consider withdrawing the reservation and asked it to provide the Committee with more information on the recently established human rights commission.

78. The CHAIRMAN invited Mr. Simkhada (Nepal) to reply to members' questions at its next meeting.

The meeting rose at 1 p.m.

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fiftieth session

SUMMARY RECORD OF THE 1196th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 10 March 1997, at 3 p.m.

Chairman: Mr. BANTON

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GE.97-15826 (E)

The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Thirteenth and fourteenth periodic reports of Germany (CERD/C/299/Add.5)

1. At the invitation of the Chairman, Mr. Höynck, Ms. Voelskow-Thies, Mr. Haberland, Mr. Willers, Mr. Schaefer, Mr. Weckerling, Mr. Gromann, Mr. Hellbach and Ms. Aderhold (Germany) took seats at the Committee table.

2. Mr. HÖYNCK (Germany) said that since its inception, the United Nations had included a strong human dimension in its work. The goal in the area of human rights had moved away from standard-setting towards implementation. It was shocking to see that throughout the world racism was re-emerging, a situation which demanded resolute action at every level, even though that was no easy task. In Germany, coordinated efforts were being made to combat all forms of racial discrimination and involved not only the authorities but civil society, churches and religious communities, trade unions and NGOs. In presenting its report, Germany wanted to show the Committee the degree of commitment on the part of public bodies and the progress they had made.

3. Ms. VOELSKOW-THIES (Germany) said that between 1993 and 1995 the number of investigations into right-wing extremist activities or xenophobic criminal offences in Germany had fallen by almost 50 per cent and criminal offences against foreigners had fallen drastically thanks to rigorous action by the prosecuting authorities against any right-wing extremist, particularly xenophobic and anti-Semitic, violence. The report before the Committee did not correspond to the text the authorities had submitted to the Centre for Human Rights in that information on article 7 had been omitted.

4. With regard to article 2 of the Convention, Germany was actively working to develop the Council of Europe's Framework Convention for the Protection of National Minorities, which it intended to ratify in the near future. Protection of national minorities and population groups was provided for in the national Constitution and the Constitutions of the Länder. Legislation was in place to ensure that national minorities could participate in the affairs of the State and society. In their traditional areas of settlement, education was provided in the language of the minority concerned. The Jewish community, which did not consider itself a minority but a religious community, had grown considerably since 1990. Germany had encouraged the Jewish influx, particularly from the successor States of the former Soviet Union, so as to strengthen Jewish community life and there had been no problems. As a rule, the population was well-disposed towards their Jewish fellow citizens. Although the fires in the Lübeck synagogue in 1994 and 1995 had attracted a great deal of attention, only the incident in 1994 had a right-wing and extremist background. The persons found guilty of that criminal act had been convicted and sentenced to between two-and-a-half and four-and-a-half years' imprisonment.

5. With regard to article 4 of the Convention, inflammatory and neo-Nazi texts, sound recordings and other propaganda remained a great danger. Since the production and dissemination of such material was a criminal offence, any

material discovered was routinely confiscated. The Government had commissioned a report on the extent to which right-wing extremist propaganda was being disseminated on the Internet. Germany was trying to ensure that there was international harmonization of statutory provisions, at least throughout the European Union, on criminalizing racist propaganda. Criminal prosecution played an important role in eliminating such propaganda. The American neo-Nazi Gary Rex Lauck had been convicted and sentenced by a German court to four years' imprisonment for criminal agitation against sections of the population, incitement to racial hatred, dissemination of propaganda and using the symbols of anti-constitutional organizations. Information compiled by the Federal Office for the Protection of the Constitution indicated that membership of right-wing extremist associations had fallen sharply since 1993.

6. The decision by the Council of the European Union to designate 1997 as European Year against Racism had prompted the establishment of a national coordination committee in Germany made up of government agencies and NGOs. Cultural and social events and information campaigns dealt with topics designed to promote mutual understanding and were targeted particularly at teachers, journalists, schoolchildren, apprentices and trainees. Of particular interest were the anti-racist hotline, an anti-discrimination bureau and international school exchanges. NGOs, churches, youth associations and cultural associations were also involved in activities to eliminate racism.

7. In the Council of Europe, general policy recommendations and proposals had been drawn up to extend article 14 of the European Convention on Human Rights. The European Commission against Racism and Intolerance had compiled a comprehensive document describing concrete domestic measures that had been taken by contracting States. Nine working groups were looking at conditions in member States of the Council of Europe. Working groups were also examining recommendations on the introduction of ombudsmen, a network of research institutions throughout Europe and a data bank.

8. The number of foreigners living in Germany had gone up. They accounted for almost 9 per cent of the total population, although the figure was as high as 20 per cent in some urban areas. The largest groups were from Turkey, the Federal Republic of Yugoslavia (Serbia and Montenegro), Italy, Greece, Bosnia and Herzegovina, Poland, Croatia, Austria, Spain and Portugal. In 1993, there had been 2 million refugees in Germany, although the number had declined since then. The figures in the report had changed slightly: 300,000 people were entitled to asylum, many of them with their families; there were 350,000 asylum-seekers, 100,000 quota refugees, 16,000 displaced foreigners, 500,000 de facto refugees and 330,000 war refugees from Bosnia and Herzegovina.

9. Efforts had been made to integrate foreigners who had been living in Germany for a long time. For instance, between 1972 and 1995, more than 89,000 foreigners of Turkish origin had acquired German nationality. It had become considerably easier to acquire German nationality since 1990. Foreigners who had been living legally in Germany for a long time had then become entitled to apply for German nationality and did not have to prove their degree of integration. At the behest of her Government, Turkish law had also been amended in 1995 to provide that renunciation of Turkish nationality

was no longer conditional upon prior completion of military service, and persons who gave up Turkish nationality were no longer subject to certain legal disadvantages, such as restrictions on the purchase of real estate in Turkey.

10. A number of court decisions had been handed down concerning the punishment of discrimination and Nazi propaganda in places of employment. For example, a Turkish woman had been given notice of dismissal from her place of work on the grounds that there were too many foreign employees working for the firm concerned. She had taken the case to court and won, since an employee's national origin did not constitute grounds for dismissal. Also, the Frankfurt Labour Court had ruled in favour of an employer who had dismissed a German worker because he had hung up a picture of Hitler at work in a conspicuous position. The Lower Saxony Labour Court had declared a notice of termination of a contract of employment to be lawful because the German employee concerned had distributed pamphlets with inflammatory speeches against foreigners, repatriates and asylum-seekers. Similarly, according to a judgement handed down by the Hamburg Labour Court, a German employee could be dismissed for scrawling xenophobic graffiti on his employer's premises even though he had worked for the firm for many years.

11. The number of xenophobic attacks had continued to decline and police were becoming more successful in dealing with crimes with a racist or discriminatory element.

12. Germany was party to many international human rights instruments and therefore subject to their individual control mechanisms. Thus, the authorities saw no reason to make the declaration under article 14 of the Convention as it would be superfluous; they wanted to keep legislation as simple as possible to avoid duplication of provisions and confusion among citizens.

13. With regard to the question of anti-discrimination legislation, article 3 of the Basic Law provided that nobody should be subjected to discrimination because of his or her sex, birth, race, language or national origin. The provision was binding on Parliament, the administration and the judicial system. Although it was considered that an anti-discrimination law would send a positive signal to the population, there was also a feeling that an active integration policy aimed at dismantling legal and other barriers faced by foreigners who had lived in Germany for a long time was more important than enacting legislation.

14. Although the number and intensity of violent attacks had declined considerably, xenophobic attitudes in everyday life were a continuing source of concern. The authorities were keeping a watchful eye on developments and were reacting to attacks resolutely and without delay.

15. The CHAIRMAN said that information on article 7 of the Convention was contained in annexes that were available in the meeting room.

16. Mr. CHIGOVERA (Country Rapporteur) commended the regularity with which Germany submitted its reports to the Committee, and the fact that they were set out in accordance with the Committee's guidelines and provided substantial

detail on legislative, judicial, administrative and other measures adopted or planned in order to combat racism. The apparent lack of information on article 7 of the Convention had been explained.

17. With regard to public law, the legislative and administrative measures taken by Germany to eliminate racism and racial discrimination were satisfactory, although the effectiveness of implementation mechanisms needed to be looked at anew. Measures taken in the sphere of private law were unsatisfactory. The Civil Code did not have any specific provisions for dealing with discrimination in access to employment, housing and other social and economic spheres where discrimination was often found.

18. During consideration of Germany's twelfth periodic report, it had been stated that xenophobia was due not only to social problems but also to lack of knowledge and an inability to cope with democracy and make compromises. The Government's response to that appeared to be the establishment of the Federal Centre for Political Education, whose primary concern was to develop a democratic consciousness through a variety of publications and provided information to young persons by advertising in the magazines they would read. However, he asked what other practical steps had been taken to ensure that such democratic consciousness was entrenched in young minds. He also requested further information on specific school courses aimed at preventing racial prejudice among young people in Germany.

19. Paragraph 8 of Germany's report correctly defined the Government's obligations under article 2, paragraph 2, of the Convention, but then confined the groups requiring protection to the minority groups traditionally resident in Germany, which were not the only disadvantaged groups needing special protection. That narrower approach was further reinforced by the Government's interpretation of its obligations under the Framework Convention for the Protection of National Minorities, referred to in paragraph 10. What was the status of protection of members of other ethnic groups who were not traditionally resident in Germany but were now German citizens, such as Turks, Italians, Africans and others? And why was there no special protection for them? Did such differential treatment of members of minorities who were all German citizens not amount to discrimination on grounds of national origin?

20. With regard to the implementation of article 3 of the Convention, he drew attention to the Committee's General Recommendation XIX, pointing out that conditions of partial segregation might arise as an unintended by-product of the actions of private persons; they might occur in residential patterns or in schools, often for reasons of income differential. Was the Government conscious of such a possibility and what was its strategy for preventive action, especially in the light of the large numbers of foreigners resident in Germany?

21. He was generally satisfied with Germany's fulfilment of its obligations under article 4, but asked, in connection with paragraph 54 of the report, what the Government's position would be with respect to an association or organization that was a political party and whose aims and orientation contravened the criminal law and, more particularly, entailed racial exclusion. In paragraph 57, which appeared to follow up paragraph 54, he

asked what was meant by the unconstitutionality of political parties, what was the consequence of a Federal Constitutional Court decision to that effect and, specifically, what sanctions were applied.

22. With regard to the implementation of article 5, although paragraph 76 listed the largest groups of foreigners, he wished to know what was the size of the African population in Germany and what had become of African contract workers, particularly in the former German Democratic Republic? The integration policy referred to in paragraph 82 appeared to be restricted to foreign workers recruited before 1973 and their family members who had joined them thereafter. What was the position of other foreigners who had entered Germany after 1973, some of whom had now been in the country for over 20 years and might have qualified for German citizenship and become German citizens? How was foreigners' right of access to the courts, referred to in paragraph 87, exercised by economically disadvantaged foreigners? Was any form of legal aid available when they had complaints about racial discrimination in employment or other spheres that were not covered by criminal laws?

23. The wording of section 81, subsection 2, of the Insurance Supervision Act, quoted in paragraph 90, suggested that discriminatory action by insurance companies merely gave aggrieved persons the right to take action, but did not constitute conduct prohibited and punishable by law. The absence of that kind of protection, which was also apparent in other social sectors, seemed to imply inadequate compliance with article 5 (e) (i) of the Convention. Paragraph 94 shed little light on the precise measures taken by the Government to prevent the forms of racial discrimination covered by that article and appeared to amount merely to a statement of disapproval rather than providing for legal prohibition and sanctions. He referred the Government to an International Labour Office report entitled "Labour market discrimination against foreign workers in Germany", which, inter alia, reported on discrimination arising from pay differentials between Germans and foreigners. He asked whether the political discussions on the possible introduction of a comprehensive anti-discrimination law, referred to in paragraph 95, were still going on and, if so, when the Committee might be apprised of the conclusions and of any further anti-discrimination measures in various social sectors, including employment.

24. With reference to article 6, he asked whether the decrease in xenophobia-related offences was thought to indicate growing racial tolerance among the population or the effectiveness of the preventive measures taken. His question should be seen in the context of indications in the report that xenophobic violence was spontaneous and had no organized pattern or political backing. Commending the research project on the causes of xenophobic violence referred to in paragraph 113, he asked what steps had been taken by the Government in response to its findings, and specifically what measures had been taken to change the attitudes of young people, who had been found to be the principal offenders. What were thought to be the causes of the increase in the proportion of older suspects in such violence and, if they included the growth of racist political organizations, were steps being taken to counter that trend? Press reports, including one in The Guardian of 3 March 1997, suggested that neo-Nazi demonstrations enjoyed the tacit support of certain political parties, which prompted him to ask whether the Government should not

re-examine its conclusion that neo-Nazis or skinheads, who were responsible for most xenophobic incidents, had no political backing. Referring to paragraph 134, he asked what the exact figure was for the number of persons prosecuted and convicted and whether the reason for the low success rate of investigation proceedings was some inadequacy in the investigation or prosecution procedures or related legal provisions, or in the attitude of investigators.

25. In its 1996 report, Human Rights Watch had pointed out that, while the judiciary had improved its response to racist violence in 1995, the number of prosecutions dismissed for insufficient evidence remained alarmingly high, suggesting that the police and prosecutors had not been preparing cases thoroughly. Human Rights Watch had also suggested that one of the possible reasons for the low rate of prosecution of xenophobic offences might be the slow response of the police, which made it difficult to gather evidence.

26. While he was aware of the observations of the German Government in response to the report submitted by the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism and racial discrimination, xenophobia and related intolerance (A/51/301), various organizations reporting on human rights, including Human Rights Watch, Amnesty International, the United States State Department and the Africa World Review, had noted numerous cases of mistreatment of foreigners by police officers, some of them resulting in serious injury to the victims. Amnesty International had further reported that in many instances persons alleging such mistreatment ended up being charged with resisting State authority. He wondered whether the somewhat dismissive attitude of the Government towards such allegations in paragraph 139 was intended to convey the message that such mistreatment did not take place at all. Although the German authorities had commendably reported to the Special Rapporteur the steps they had taken to punish offending police officers in several instances, he would have expected the report to the Committee to have dealt with the question at length, conveying the Government's concern about the existence of a problem and the steps being taken to investigate allegations. The many reports of police mistreatment, including cases referred to in the report of the Special Rapporteur, perhaps implied some serious flaws in the orientation of the police officers concerned and possibly deep-rooted prejudice against foreigners in the communities from which they came. They pointed to the need for a different approach in investigating xenophobia-related offences by police officers and prompted the conclusion that investigations of police officers by their own colleagues would achieve very little. Had consideration been given to establishing a fully independent body to investigate complaints against the police?

27. Mr. GARVALOV raised the issue of protection of minorities in Germany, expressing his interest in paragraph 10 on Germany's accession to the Framework Convention for the Protection of National Minorities in 1995, and noted the declaration made by Germany on the application of that Convention after ratification. As a convention of principle and a regional convention having no monitoring mechanism or mandatory obligations, the Framework Convention was in sharp contrast to the International Convention on the Elimination of All Forms of Racial Discrimination. It was not surprising that

the Framework Convention contained no definition of "national minorities", given that the definition of "minorities" had proved problematic for the United Nations itself.

28. He asked why Germany recognized only Danes and Serbs with German citizenship as national minorities, and why the Sinti, Romany and Priesians were regarded as ethnic groups. The informaton in paragraph 8 suggested that there were five ethnic groups, whereas paragraph 9 referred to only four. He wished to know which group of minorities was being excluded for the purpose of that paragraph. He asked why second and third-generation German citizens of Turkish origin were not considered national minorities or as belonging to an ethnic group. He recalled that in 1992 the General Assembly had adopted a Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, and wondered why Germany had not been inclined to make a distinction between the minorities along the lines of that Declaration.

29. He was intrigued by the measures against organizations with racist aims described in paragraphs 53-61, and was curious to know why the speedy legislative measures to ban associations expounding racist ideologies could not be applied to political parties having the same aims.

30. He commended the German Government for its surveillance of right-wing extremist groups, although he did not believe that xenophobia could be described as "spontaneous". It was also heartening to note that Germany's interpretation of article 7 was strict and appeared to take the Committee's General Recommendation V fully into account.

31. The issue of integration in Europe was of great concern as barriers, such as the Schengen Agreement, were being erected by some European States to bar entry of persons from nations which were ethnically different from their own.

32. Mr. van BOVEN said that the detailed information provided under articles 4 and 6 showed that the German Government was fully aware of the dangers of the resurgence of right-wing extremism and corresponding patterns of racism and violence. On a less positive note, the report did not deal systematically with the Committee's concluding observations of August 1993 (document A/48/18, paras. 442-452) or, in particular, the suggestions and recommendations. The practice of making concluding observations had been introduced as an important tool for follow-up monitoring and the Committee expected States parties to take them into account.

33. Referring to the report on contemporary forms of racism and racial discrimination, xenophobia and related intolerance (A/51/301) prepared by the Special Rapporteur of the Commission on Human Rights, who had visited the Federal Republic of Germany, he said there had been no evidence that the Special Rapporteur had taken the Committee´s work into consideration. He wondered whether that omission indicated a lack of coordination on the part of another United Nations body.

34. As had been mentioned in 1993, it was striking that some groups of persons who had German nationality, such as the Turks, were not covered by

measures for the special protection of minorities. He was pleased to see that the Friesian ethnic group had been included in the category for special protection since the consideration of previous reports from Germany. However, although paragraph 24 acknowledged Germany´s historical responsibility towards the Sinti and Romany, there was no further information in the report on follow-up to separate treaties concluded by Germany with Bulgaria and Romania which facilitated the deportation of members of those ethnic groups.

35. He reported three incidents of harassment, derogatory language and denial of housing rights vis-à-vis gypsies. Although the victims were appealing to the European Commission on Human Rights, he feared that the issues of housing rights and discrimination would be found inadmissible before that Commission. If Germany had accepted article 14 of the International Convention, the victims would have been able to seek recourse before the Committee. He did not understand Germany´s reluctance to make the declaration provided for under article 14.

36. Paragraph 36 of the report had euphemistically referred to "isolated" attacks against the Jewish community. That description contradicted information reported by the Society for the Protection of Civil Law and the Dignity of Persons, based in Berlin, which stated that the Federal Government had admitted that 958 punishable anti-Semitic acts had been recorded in 1995; 550 such offences had been recorded during the first three quarters of 1996.

37. Turning to article 3 of the Convention, he observed that if the Government of Germany were to study the Committee´s General Recommendation IX, it would discover that the information provided in paragraphs 38 and 39 of the report was not satisfactory.

38. He was impressed by Germany's implementation of article 4; he particularly welcomed the amendment to section 130 of the Criminal Code relating to criminal agitation against sections of the population, as mentioned in paragraph 48 of the report.

39. The amendment to article 16 of the Basic Law had achieved the desired effect of considerably reducing the number of asylum-seekers. In that context, reference had been made to the designation of "safe countries"; he requested the delegation to provide the Committee with a list of the countries considered "safe". Also in connection with the Basic Law, he was not sure whether the effect of the policy enunciated in that Law was in harmony with the International Convention.

40. He asked for an explanation of the policy whereby certain foreigners, including those without legal status and temporary residents, were not entitled to compensation for acts of racial discrimination committed against them.

41. The Committee had earlier expressed a keen interest in the enactment of a comprehensive anti-discrimination law and there had been much discussion of the subject both within the Committee and in Germany. He was therefore disappointed that paragraph 95 contained little information on developments in that area, and doubted whether article 3 of the Basic Law covered all the concerns to be met by such a comprehensive law.

42. He refuted the claim made in paragraph 97 that measures taken by the Government to deal with xenophobic activities had been successful. He believed that the outcome of proceedings under resolution 1503 (XLVIII) of the Economic and Social Council could not be cited as an argument to support that claim.

43. He considered the periodic report and the discussion of issues within the State party extremely important; he hoped the report and concluding observations would be widely distributed.

44. Mr. DIACONU said that consideration of the report was a challenge for both the delegation and the Committee, given the size of Germany, the large numbers of foreigners and minorities living there, the federal structure of the Government, and the historical responsibility of the State towards some of its ethnic groups and towards peace and security in Europe.

45. The demographic situation and the issue of minorities were puzzling in that there was a small number of minorities but large numbers of foreigners with German nationality. In view of the differing levels of treatment accorded to various categories of Germans, he welcomed the recognition of the Friesian ethnic group and urged the Government to take up the issue of recognition of minorities in earnest.

46. States parties were committed, under article 2, paragraphs 1 (a) and 2, to the elimination of racial discrimination against individuals and groups and to the adequate development and protection of certain racial groups or individuals belonging to them. Under article 4, States parties were obliged to punish all acts of violence or racial discrimination. Out of concern at the restrictive application of the Framework Convention for the Protection of National Minorities in Germany, he asked how many foreigners, other than Turks, had become German citizens, how the population of 125,000 Romanians who were not of German origin were categorized, and what was the situation of the emerging minorities.

47. The question of the terminology used to distinguish between certain national minorities, ethnic groups and communities had already been raised, but there remained the question of the status of the other minorities. On a practical note, he wondered what would be done to preserve the cultural identity of the latter minorities.

48. With reference to paragraphs 95 and 96, he believed the Government of Germany should be encouraged to continue its efforts to improve the enforcement of its legislation. He recalled the recommendation made by the Special Rapporteur of the Commission on Human Rights in that regard. He hoped the Government would continue to pay strict attention to the attitude of the police and other State authorities towards people of non-German origin.

49. In connection with the question raised by Mr. van Boven concerning treaties concluded with Germany, he explained that they were treaties of readmission and that Romania had a constitutional obligation to readmit its citizens found abroad in an illegal situation.

50. Mr. LECHUGA HEVIA said that he had just a few questions to add. Noting that the Danish and Sorb minorities were exempt from the application of the 5 per cent blocking clause, he inquired whether gypsies should not also benefit from that rule, given that their numbers were roughly the same as those of the other two groups and notwithstanding the fact that they were more scattered throughout the territory of Germany.

51. He asked what had been the results of the Government's dialogue, begun in 1993, with the World Jewish Congress concerning isolated attacks against Jewish institutions. Likewise, what had been the conclusions of the meetings held over the past two or three years between representatives of the Government, the media and experts to discuss the rise in xenophobic violence? He also wondered what the response of the Government had been to the recommendation contained in an ILO study on migrant workers, which had coincided with the recommendation made by the Special Rapporteur on contemporary forms of racism and racial discrimination, xenophobia and related intolerance (E/CN.4/1996/72/Add.2, para. 56 (e)), to pass specific legislation to combat racism, anti-Semitism and xenophobia rather than adopting various isolated measures.

52. He cited the case recently reported in the press of a German who had murdered a Gambian citizen in a train in Germany, had at first been acquitted and then, after an appeal, had been given a two-year suspended sentence. That showed that racist acts were commonplace and, in the example given, were even allowed to go unpunished by two judges.

53. Mr. VALENCIA RODRIGUEZ stressed that Germany's policy of combating discrimination was based on the fundamental recognition of equality and the prohibition of discrimination embodied in article 3 of the Constitution. Legislation to combat discrimination was binding on the legislature, the executive and the courts and was directly applicable. Germany had acknowledged that the phenomenon of racism and racial discrimination existed. Manifestations of racism were considerable in their extent, and Germany must take further measures to combat the phenomenon.

54. Germany had been complying with its obligations under article 4 of the Convention and should continue along that path. Administrative, judicial and other actions provided for in legislation should be extended. With regard to paragraph 79 of the fourteenth report, he sought more information on the specific ways in which the Government was working to prevent abuse of asylum and illegal immigration, a problem that affected many countries.

55. Mr. de GOUTTES commended the Government of Germany for responding to many of the questions which the Committee had asked at its previous session. The fourteenth report painted a convincing picture of the various measures taken by Germany to combat racism and xenophobia; that effort seemed to be producing results, because the Government had indicated that there had been a decrease in racist and xenophobia-related crimes. The report testified to Germany's great determination to deal with a difficult problem, and he was particularly impressed with the account, in paragraphs 113-119, of the underlying social and economic causes of the phenomenon, particularly among young people.

56. With regard to paragraph 48 of the report, he noted that, like a number of other European States, including France, Germany had adopted legislation punishing denial of the genocide committed under the Nazi regime. He asked whether there had been any cases of application of that legislation in the courts and whether any complaints had been lodged on that basis.

57. In connection with paragraphs 139-141, he was interested to read the frank discussion of complaints against police officers in connection with racist and xenophobic incidents. That was a sensitive issue in all countries. As the police were in constant contact with foreigners, their attitude was a test of the tolerance of the country concerned. He would be interested in receiving any further information on cases in which the police had been accused of racist acts.

58. He asked why Germany had still not set up a national human rights body. He noted that many other European countries had already done so and that such bodies could play an important role in averting xenophobia and racism. Likewise, he did not find fully persuasive the explanation given by the delegation of Germany as to why its Government was not considering making the declaration under article 14 of the Convention, especially as Germany accepted individual communications under the International Covenant on Civil and Political Rights. To his mind, there was no duplication with article 25 of the European Convention on Human Rights, which did not cover economic, social and cultural rights. In that connection, he did not believe that the prospect of a future sole European court of human rights had any impact on the question.

59. Mr. SHAHI commended Germany for making what appeared to be a serious attempt to confront racial discrimination, but much still remained to be done. Given Germany's historical responsibility, an effort needed to be made to fully integrate into the German nation the country's 6.5 million foreigners, including 1.5 million refugees, most of whom did not want to return home. Noting that a national debate was under way on a comprehensive anti-discrimination law (para. 95), he asked the Government to respond in its next report to the recommendations contained in the report of the Special Rapporteur on contemporary forms of racism and racial discrimination, xenophobia and related intolerance, and in particular to the call for a law to be passed against racism, anti-Semitism and xenophobia.

60. Mr. SHERIFIS praised the delegation of Germany for its frank statement on the re-emergence of xenophobic and racist acts in that country, which differed strikingly from the assertion by some States parties that there was no racial discrimination whatsoever in their countries and thus no need for legislation on the basis of article 4. There was, however, still room for improvement in certain areas, for example with regard to Germany's attitude towards article 14. The delegation of Germany had cited all the instruments to which Germany was a party, arguing that a declaration under article 14 would simply be redundant; in his view, such an enumeration suggested that a declaration under article 14 would be all the more logical, especially as a great country like Germany should provide leadership in that area. Concerning paragraphs 64-66 of the report, he asked what had been the result of the initiative taken in 1994 by the European Council of Ministers to combat racism and xenophobia. Turning to paragraph 40, and bearing in mind General

Recommendation XVII, he asked whether Germany had taken any steps to establish national institutions to facilitate implementation of the Convention. He welcomed Germany's ratification of the amendments to article 8, paragraph 6, of the Convention adopted by the fourteenth meeting of the States parties.

61. In the context of German reunification, and bearing in mind General Recommendation XXII, he inquired how the right to own property was ensured and whether persons had the right to return to their homes of origin under conditions of safety, to have their property restored, etc.

62. Mr. ABOUL-NASR, reserving the right to speak further the following day, noted that while detailed information had been provided on the Jewish minority in Germany, which comprised only 50,000 or so members, none had been given on the situation of the more than 2 million Muslims in that country; he therefore hoped that the delegation of Germany could provide some data on that question.

The meeting rose at 6.05 p.m.

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Fiftieth session

SUMMARY RECORD OF THE 1197th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 11 March 1997, at 10 a.m.

Chairman: Mr. BANTON

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Thirteenth and fourteenth periodic reports of Germany (CERD/C/299/Add.5) (continued)

1. At the invitation of the Chairman, the members of the delegation of Germany resumed their places at the Committee table.

2. Mr. FERRERO COSTA welcomed the fact that the report had been prepared in accordance with the Committee's guidelines on the preparation of reports and that it provided important information on the implementation of the Convention. Nonetheless, Germany recognized that problems persisted in the area of racial discrimination. In its next report, it should inform the Committee on the follow-up given to the possible comprehensive anti-discrimination law. Such a law was essential in order to supplement existing legislation. At the federal level, it would be useful to set up a body for protecting human rights and combating racial discrimination. He recommended that the country should make the declaration, under article 14, paragraph 1, recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals. That would make it easier to combat racial discrimination.

3. Further information on the respective powers and responsibilities of the Länder and the Federal Government in the protection and exercise of human rights would be useful.

4. He was concerned by the presence in Germany of right-wing extremist parties. According to paragraph 57 of the report (CERD/C/299/Add.5), it was the Federal Constitutional Court alone that decided on the unconstitutionality of political parties, at the request of the Federal Parliament, the Federal Council, the Federal Government or the government of a Land. It therefore seemed that to ban those parties required the political will of the Executive. That last remark was associated with the fact that, according to paragraph 61, the German Government was giving priority to the intellectual and political confrontation with extremism and was setting its sights on public enlightenment. That attitude seemed to contradict everything that had been said in the report on the Government's action to combat racial discrimination.

5. In relation to political asylum, he wished to know from which countries the persons who could automatically obtain the right to asylum came. According to the German non-governmental organization (NGO) Gesellschaft zum Schutz von Bürgerrecht und Menschenwürde (Association for the Protection of Civil Rights and Human Dignity), restrictions on the right of asylum in Germany had resulted in rampant racism in national institutions. He asked for further information on that subject. He also wished to know the difference in status between refugee and asylum-seeker and requested information on the naturalization process for foreigners, and particularly on the reform of the law on nationality and citizenship referred to in paragraph 85.

6. Mr. ABOUL-NASR commended Germany's efforts to implement the Convention. He would like to have further information on the situation of the more than 2 million Muslims living in Germany. Did they have mosques, school and other services on equal terms with other minorities, such as the 47,000 Jews residing in Germany?

7. Regarding article 14 of the Convention, under which a State party could at any time declare that it recognized the competence of the Committee to receive and consider individual communications, unlike other members of the Committee, he believed that such a declaration was not of great importance. The current procedures for considering individual complaints were so complicated that it was preferable for a victim of discrimination to bring his case to an NGO, which could transmit it directly to a member of the Committee. That procedure was much faster. Contrary to other members of the Committee, he did not feel it was useful to encourage Governments to make a declaration under article 14 of the Convention.

8. It was not for Governments to create human rights commissions, since such commissions, being created and financed by the central Government and composed of members it designated, would become official bodies. Such commissions should be based on the initiative of civil society.

9. Referring to paragraph 45, he asked the delegation for a copy of the law making it an offence to deny the Holocaust. He wondered whether the fact that a person stated that 3 million, and not 6 million, Jews had been exterminated in the Nazi concentration camps would constitute grounds for prosecution. The State of Israel itself had affirmed in 1949-1950 that the figure was only 4 million. Had persons who had disputed the number of Jews killed in the concentration camps been prosecuted in Germany?

10. According to paragraph 24, Germany was aware of its historical responsibility towards Sinti and Romany, many of whom had been victims of Nazi racial ideology. That was not enough. The country must take action and compensate those communities, as it had compensated the Jews. He wished to know if it was only foreigners residing in Germany who were entitled to compensation for discriminatory acts committed against them.

11. Mr. AHMADU welcomed the fact that the report had been prepared in accordance with the Committee's guidelines. Many steps had been taken to improve the implementation of the Convention, and he wished to know whether businesses and trade unions were as concerned as the Government with putting an end to racial discrimination. He noted that several ethnic minorities, including the Danish minority and the Sorbs, enjoyed a particular status which enabled them to express their culture. Was that the case of all minorities in Germany? He asked for further information on measures taken to promote tolerance. Were the Muslims who lived in Germany able to exercise their religion fully?

12. He also requested further information on the criteria applied for obtaining visas and entry permits. It would seem that nationals of former German colonies, such as Togo, the United Republic of Tanzania and Cameroon, received preferential treatment in that regard.

13. The Special Rapporteur had mentioned the example of some black Africans who had been attacked by skinheads or members of right-wing extremist organizations. The press had recently reported the case of a Gambian who had been killed under such circumstances. Apparently, Blacks were the victims of grave acts of discrimination, whether in regard to access to employment or to obtaining political asylum. Steps should be taken to protect those persons.

14. Referring to the table in paragraph 76 which showed the number of foreigners living in Germany by country of origin, he said he was surprised to see no African country on any list. The Government should take the opportunity of the next report to provide more specific information on that point.

15. More progress was needed in the implementation of the Convention, particularly with regard to making law enforcement officers and judges aware of the struggle against racial discrimination, so as to give full effect to applicable legislation.

16. Mr. YUTZIS commended the seriousness of the report and said that in addition to the specific information it contained, it enabled questions of substance to be posed, in particular thanks to surveys undertaken in Germany. To that end, he asked for further information in the next report on the criteria used to define minorities or ethnic groups. He would also like more specific information on the concrete situation of the Gypsies, concerning which he had received alarming reports from the Rom and Sinti Heidelberg bureau. He also wished to see the list of so-called "safe" countries so as to judge the degree of safety they afforded.

17. He drew the attention of the delegation and the members of the Committee to the special situation, referred to by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and intolerance, prevailing in Berlin with regard to access by ethnic minorities to housing and employment (E/CN.4/1996/72/Add.2, annex IV, para. 16). Had the heading "Foreigners: yes/no", which was a blatant and inadmissible case of discrimination been eliminated from the computerized files of the Central Employment Office? Was such a criterion also used for job-seekers in other German cities or Länder? He wished to ask a question of substance, namely, whether the attacks on the Jewish community, for example (CERD/C/299/Add.5, para. 36), were isolated instances or symptomatic of the state of affairs in German society. He also referred to the ethnic discrimination practised in daily life (E/CN.4/1996/72/Add.2, paras. 10, 11 and 13). He was particularly concerned that many xenophobic acts were committed spontaneously, which was in his view more disturbing than if they had been carried out by organized groups (CERD/C/299/Add.5, para. 110). In that connection, he cited the study conducted by Professor Heitmeyer of the University of Bielefeld (CERD/C/299/Add.5, paras. 116-118), which reported that spontaneous xenophobic violence was inspired by fears linked to the scarcity of work and housing, or by feelings that the offender's own culture was under threat.

18. In times of economic crisis, when there seemed to be no direct relationship between global economic growth and solving the unemployment problem, we was concerned about what would happen to the foreigners.

Although he acknowledged the major effort Germany was making, given the burden of history, to combat racial discrimination, he requested additional information on steps the Government was taking to combat spontaneous violence.

19. Mr. HABERLAND (Germany) stressed the important role played by the Government's integration policy. One of its major objectives was to integrate, as far as was possible, all the foreigners who had arrived in the country before 1973, and even since that date (CERD/C/299/Add.5, para. 82). Since 1 January 1991, a new law governed the legal status of foreigners: it allowed for family reunification, granting of permanent resident status, naturalization and return to Germany of those who had lived there previously. The integration policy was also aimed at guaranteeing foreigners, especially young people, concrete assistance with integration. To that end, German language courses were given in the schools so that young people could acquire vocational training and subsequently an occupation enabling them to climb the social ladder. Labour, management and the trade unions were all cooperating to facilitate access by young foreigners to the labour market.

20. With respect to the segregation of foreigners, particularly in the area of housing, he said that in many German cities, foreigners represented 25 per cent or even more of the population of some neighbourhoods and that there were "microcosms" in the large cities where foreigners, particularly Turks, had spontaneously come together. The Germans had left those neighbourhoods, but they had been replaced by other Germans. He considered that to be a positive development which the State could neither encourage or discourage.

21. However, he stressed the need to reflect on the situation of Muslims in Germany, where Islam had become the third largest religion. He estimated that there were between 2.4 million and 2.6 million Muslims, 2 million of whom were Turks. The German Constitution guaranteed freedom of religion. In Germany, there was no single Islamic organization that represented all Muslims, but there were many small groups, often constituted as associations (2,000 to 5,000, according to estimates). About 30 mosques had been built or were under construction, and there were more than 2,000 places of worship. Of the 780,000 Muslim children and adolescents, 10 per cent attended Koranic schools. Religious instruction was not regulated by the Federal State, but by the Länder: religion was taught within the framework of education in the language of the parents; by teachers from the consulate of the parents' country of origin; and in Koranic schools.

22. As to the status of minorities, he promised that more information would be provided in the next report. He nonetheless noted that the privileges granted to the Danish and Sorb minorities had troubled the members of the Committee, who had asked why other minorities did not enjoy similar privileges. He recalled that the German Constitution guaranteed the implementation of article 27 of the International Covenant on Civil and Political Rights, not only for national minorities but also for other minorities - which included, for example, naturalized Turks and Italians. The Danish and Sorb minorities were perfectly bilingual and their professional integration did not pose any problem, which was not the case of the Turkish minority, for example. For foreigners, priority must be given to learning the German language; the creation of kindergartens or schools offering education

in the language of the parents risked slowing down the process of integration of the young people. That was why steps had been taken to teach the German language to foreigners and thereby give them access to education, training and ultimately a job.

23. Foreigners and naturalized individuals could benefit from cultural assistance at the local level enabling their children to follow private courses at school in their native language. Detailed regulations had been adopted by the Conference of Ministers of Religion of the Länder. The German Government believed that its linguistic and cultural assistance was sufficient. The privileges granted to the Danes and Sorbs could be explained by historical reasons, and the German Government should not be reproached for its policy towards the Danish minority, for example - which, as Mr. Diaconu and others had recognized, was an example of good neighbourliness between national groups. The Centre for Minorities established in Flensburg, Schleswig-Holstein, should serve as a model of measures for ensuring peaceful coexistence in border regions.

24. Regarding the situation of the Angolans and Mozambicans who worked in the former German Democratic Republic, approximately 90,000 persons had been employed within the framework of the international agreements signed by the latter country on 31 December 1989 (59,000 Vietnamese, 15,000 Mozambicans and 13,000 Angolans). It had been supposed that, upon the expiration of their five-year contracts, those foreigners would wish to return to their own countries. However, on 17 December 1992, the Presidents of the Parliaments and the Ministers of the Interior of the Länder had asked for proposals enabling some of them to remain in Germany. In May 1993, an agreement had been reached to the effect that those individuals who had arrived in the former German Democratic Republic prior to June 1989 and who had had legal residence status there but who had not received any aid upon their return and who had not requested political asylum would be authorized to remain as long as, as of 17 December 1993 and, subsequently, 17 April 1994, they could prove that they had a job permitting them to earn a living. As at 31 October 1996, approximately 7,300 Angolans and 2,800 Mozambicans had been resident in Germany.

25. With regard to the Rom and Sinti, under the Schengen Agreement, which in 1995 had eliminated border controls between the member States of the European Union, Romanian and Bulgarian nationals had to obtain a visa for entry into any State member of the Union. The treaty concluded with the Romanian Government on 24 September 1992 therefore did not reflect any racial discrimination against the Rom and Sinti, but rather the application of a European provision, as Germany alone processed some 400,000 asylum requests each year, 31,000 of which were submitted by Romanians. Of that number, only 0.14 per cent were requesting political asylum. Germany and Romania had reached a practical agreement allowing for the return to Romania of asylum-seekers whose requests had been denied and who no longer possessed documents proving their Romanian citizenship.

26. In 1993, the Basic Law of the Federal Republic had been amended to take into account the difficulties faced by Germany as a result of the particularly generous provisions of its legislation on the right of asylum adopted following the Second World War. In conformity with the complementary

provisions of the Dublin and Schengen Agreements according to which an asylum-seeker could submit only one request for asylum throughout the Union, an asylum request submitted by a person in transit through a "safe" third State was not admissible in Germany. "Safe" States were members of the European Union and other States parties to the Geneva Convention relating to the Status of Refugees and the European Convention for the Protection of Human Rights and Fundamental Freedoms, namely, Norway, Poland, Switzerland and the Czech Republic.

27. It should also be pointed out that most of the Romanian political asylum-seekers whose requests had been denied had been able to return to their country without suffering harassment there, which tended to confirm the fact that they were in fact economic migrants and not persons fleeing political persecution.

28. The July 1993 act called for an expedited procedure for asylum-seekers from States that did not practise political persecution or inhuman treatment, namely, Bulgaria, Poland, Romania, Czechoslovakia, Ghana and Senegal. Nationals of the former German colonies in Africa, on the other hand, henceforth had to obtain a visa in order to visit Germany.

29. With regard to the representation of minorities through political parties, the Danish community, which was not subject to the 5 per cent rule, had won two seats in the Schleswig-Holstein Parliament in 1996, and a committee for Danish questions comprising members of the Bundestag, representatives of the Danish community, the Federal State and the Land had been formed.

30. The Sorbs, who lived above all in Saxony and Brandenburg and were not subject to the 5 per cent clause, had not formed a separate political party, preferring to stand as candidates and be elected on the lists of the major parties. They had two deputies in the Bundestag.

31. The Rom and Sinti had not founded any political parties and could be elected only with difficulty, as they were quite spread out over the territory. The matter of their compensation for the persecution suffered during the Second World War posed complex practical problems which were the subject of a report by the Ministry of Finance.

32. Mrs. VOELSKOW-THIES (Germany) said that her country was making great efforts in education to see that young Germans better understood other peoples of the world. Various disciplines stressed the culture, history and religion of foreign countries in general and of the countries of origin of the immigrants in particular. School curricula also dealt with general subjects such as human rights, racism, xenophobia, sexism, democracy and the United Nations. The educational system encouraged democratic, non-hostile behaviour through various socio-educational activities, particularly vis-à-vis the presence of students of foreign origin. Many debates were held on xenophobia, multicultural coexistence, racism, minorities, National Socialism and immigration.

33. Many schools were planning to participate in the activities of the UNESCO-affiliated school network programme for international peace and understanding.

34. With regard to military personnel, training officers and young recruits were given an education that covered human rights, xenophobia and extremism. An entire structure was in place, ranging from the dissemination of internal publications to disciplinary sanctions, to combat racist or xenophobic behaviour within the armed forces.

35. Mr. GROMANN (Germany) said that, of 16,000 cases filed against police officers, only 2,000 resulted in sentences, while, statistically, 15 per cent of complaints generally led to a guilty verdict. As to the grounds for the complaints, the normal interventions of the security forces sometimes created situations that lent themselves to conflicts with citizens, and all the more with foreigners, for example when the police undertook road checks, house or body searches or alcohol tests as part of its routine operations. Without reliable evidence, it was often difficult to prove the guilt of the police. However, the officials in charge of investigating complaints against members of the security forces of law and order were independent of the police. The 1995 Conference of Ministers of the Interior of the Länder had stated that all cases should be duly investigated and that the perpetrators of violations or abuses of power or of xenophobic acts should be prosecuted. However, the majority of the Länder did not seem to support the creation of an ombudsman post to investigate complaints against the police.

36. In relation to the use by the police of racial stereotypes on computer, the Federal Government had indicated that the characterization and stereotyping of persons was necessary for purposes of identification but that sensitive data were treated confidentially. The criminal police had named a commission to conduct an investigation into the question.

37. As to police measures to combat xenophobic offences, the struggle against the extreme right was the subject of debate at all levels in the Federal Republic. Various committees of the Conference of Ministers of the Interior and the Länder police chiefs were aware of the problems. An awareness-raising campaign had been launched in 1993 and a number of agreements adopted between the 16 Länder to combat extreme right-wing activities, it being understood that each Land had its own criteria for police repression of the extreme right. Special commissions conducted investigations of xenophobic offences; the resources for the struggle had increased tenfold; and machinery had been set up for cooperation between all officials working in the field. Those steps had brought the number of such offences down from 6,336 in 1993 to 2,500 in 1995. In that same year, 41 per cent of the case files had been cleared up, as opposed to 20.2 per cent in 1992.

38. In connection with abuses of authority and xenophobic acts committed by the police against foreigners, a 1994 report prepared for the University of Munster, where high-ranking officials of the Federal Republic were trained, had concluded that such behaviour was neither isolated nor systematic. It was due in part to the tensions caused by the bad working conditions in troubled areas of large cities and to mistrust of foreigners. Structural gaps arising

from the failure to stipulate the tasks of the police vis-à-vis those of other State services were also to blame, as was the sometimes inadequate training of police officers called upon to deal with situations of conflict.

39. To solve those problems, the composition of the police forces must reflect a changing society with a growing number of foreigners (9 per cent of the population), without, however, establishing quotas. In 1993, about 240 foreigners had begun training for a police career. The police were aware of the need for an evolving organizational culture that would make it easier to manage its contacts with foreigners. Some police stations had special employees who helped the police in their relations with foreigners and acted as spokespersons with associations of foreigners.

40. In order to reduce stress among police officers, there was a rotation between police stations (every five years for top-ranking officers, every three years for other officers) as well as psychosocial monitoring of individuals. Systematic ongoing education of police officers was also of vital importance: police officers must have social skills, learn constitutional values and be acquainted with the situation and culture of minorities (study programmes in the countries of origin of certain minorities were planned). The Government was therefore aware of the need to prevent any racial discrimination within the police forces.

41. Mr. WILLERS (Germany) said he wished to respond to three issues raised by members of the Committee. First of all, the report of the International Labour Organization (ILO) on discrimination against migrant workers in Germany mentioned the existence of a wage gap between German workers and foreign workers. That gap, which was not based on different salaries being paid for work of equal value, but which had rather to do with the average inter-occupational wage, merely showed that far more foreigners than Germans held poorly paid jobs. In order to tackle the main cause of that de facto discrimination, namely, the inferior educational and vocational training of foreigners, the Government was taking steps, as explained in paragraph 158 of the report, to improve that training.

42. Secondly, the compensation act for victims of violence (which covered all acts of violence, and not just racist acts) adopted in 1976 had originally applied only to German nationals. In 1993, a particularly violent attack on the home of a family of Lebanese asylum-seekers had led the Ministry of Labour and Social Affairs to extend the scope of that law to foreigners, with retroactive effect to 1 July 1980. For its application, foreigners were divided into four categories depending on whether they were from European Union member States or from countries with which reciprocity agreements had been concluded, and on how long they had been living in the country. Only "illegal" foreigners could not receive compensation, as it was considered that through their behaviour they could help provoke the act of discrimination. He admitted that that notion was questionable, but it had to be said that the notion of legal residence for purposes of the application of the Act was rather broad, as it covered both those with a residence permit and asylum-seekers, even those whose appeals had been rejected but whose presence was tolerated for humanitarian reasons.

43. To Mr. Yutzis' question about why job-seekers were asked whether they were foreigners, he said it was simply because the employer had to know whether those concerned needed a work permit. He did not think the measure could be regarded as discriminatory.

44. Mr. WECKERLING (Germany), replying to the question about the different criteria applied to the banning of associations and political parties, said that, under the Basic Law, parties played a crucial role in democracy. Throughout the history of the Federal Republic of Germany, the only parties to have been banned were one of the extreme right and one of the extreme left, in 1952 and 1958, respectively. The Government had also decided more recently to ban an extreme right-wing organization which presented itself as a party but which the Constitutional Court had not considered to be a genuine party wishing to take part in the democratic process. The parties referred to in paragraph 41 of the report played a completely marginal role in Germany, and to ban them would be to give them an importance they did not possess. What was dangerous was the extreme right-wing organizations that often operated in secret, and the Constitutional Court had issued a number of bans against such groups.

45. Mrs. VOELSKOW-THIES (Germany), returning to the question of the enactment of a law against discrimination, said that about two weeks previously, Parliament had rejected a bill submitted by the Social Democrat Party on the grounds that it was not comprehensive enough. It was very difficult to draft such a law insofar as all possible cases of discrimination would have to be taken into account. The Social Democrat Party intended to amend its bill and re-submit it. There were no committees but commissioners for foreigners in Germany: 1 at the federal level, 13 in the Länder and 189 at the municipal level. Their tasks included encouraging the integration of foreigners, fostering mutual understanding and combatting xenophobia and discrimination.

46. Mr. WECKERLING (Germany) replied to three other questions raised by the Committee. As regarded legal protection granted to persons who believed they had been wronged by insurance companies, under a 1989 law, such individuals could file complaints with the labour courts or civil courts.

47. With respect to the two cases of discrimination against the Rom and Sinti minorities cited by Mr. van Boven, for the first case he referred to report E/CN.4/1996/72, in which it was discussed. For the second case, concerning the sentence handed down by the Bochum Labour Court, the judge in question had apologized, both in person and through the Council of German Judges. That case showed the extent to which both the public and the judges were sensitive to language where racism and xenophobia were concerned.

48. As to the Munich exhibition on the army, at the local level it had given rise to a virulent debate on the role played by the Wehrmacht during the Hitler dictatorship, a debate in which all political parties had participated and which had led to demonstrations by right-wing extremists. Clearly, no major political party, whether regional or other, supported neo-Nazi or right-wing extremists groups.

49. The CHAIRMAN thanked the delegation of Germany for its comprehensive and specific replies.

50. Mr. GARVALOV also thanked the delegation but regretted that one of his questions had not been answered. He wished to know how Germany defined "national minorities" and why it considered that there were two national minorities and three ethnic groups in the country (para. 8 of the report). He was still not convinced of the non-discriminatory nature of the Schengen Agreement.

51. Mr. CHIGOVERA (Country Rapporteur) thanked the delegation warmly for its candour on the question of racial discrimination, a candour which was the best means for combatting the phenomenon. Clearly, Germany was doing everything in its power to fight racial discrimination, and the criticisms or questions raised by members of the Committee were only the reflection of the generally high degree of perfection demanded. Greater protection must be granted to the national minorities, and the Committee hoped that more information would be provided on that question in the next report. What mattered was not so much to enact laws against racial discrimination as to strengthen existing legislation, for example with regard to insurance, employment and the like.

52. The CHAIRMAN, welcoming the important exchange of views that had taken place, said that the Committee had thereby concluded its consideration of the report of Germany.

53. The delegation of Germany withdrew.

The meeting rose at 1 p.m.